

In the Matter of:)
)
Business Meeting)
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WEDNESDAY, SEPTEMBER 11, 2013

10:00 A.M.

Commissioners Present

Robert B. Weisenmiller, Chairperson
Karen Douglas
J. Andrew McAllister
Janea S. Scott

Staff Present:

Rob Oglesby, Executive Director
Michael Levy, Chief Counsel
Alana Mathews, Public Advisor
Harriet Kallemeyn, Secretariat
Pippin Brehler, Senior Staff Counsel
Jared Babula, Staff Counsel

Agenda Item

Martha Brook	3, 4
David Nichols	5
Haile Bucaneg	6
Rebecca Westmore	7, 8
Matt Fung	9

Also Present

Interested Parties (* Via WebEx)

Bob Raymer, California Building Industry Association	3, 4
Patrick Splitt, App-Tech, Inc.	3, 4
*George Nesbitt	3, 4
Dimitri Contoyannis, AEC	3, 4
Cris McCullough, California Community Colleges Chancellor's Office	5
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Andre DeBortenowski, City of Victorville	7, 8

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1 P R O C E E D I N G S

2 SEPTEMBER 11, 2013 10:00 a.m.

3 CHAIRPERSON WEISENMILLER: Oh, let's start the
4 Business Meeting with the Pledge of Allegiance.

5 (Whereupon, the Pledge of Allegiance was
6 recited in unison.)

7 CHAIRPERSON WEISENMILLER: Good morning.
8 Obviously, our Business Meeting is on 9/11. And this week
9 also the other anniversary was -- on Monday was San Bruno
10 three years.

11 So, I thought it would be appropriate to start
12 with a minute of silence for the victims of both of those.

13 Okay, let's go back to the consent items. I'll
14 just go back to the Business Meetings.

15 Yeah, I was going to say first on the consent
16 items, first I'm going to hold Item Number h, okay.

17 COMMISSIONER MC ALLISTER: So, I just do not have
18 to recuse on anything at this meeting but I wanted to do
19 what -- given that the UC system is involved in lots of
20 things across the State this will be relatively common, I
21 think. But on Items 1.b, 9.a, 9.b and 9.c I just want to
22 disclose that my wife is a faculty member at UC Davis King
23 Hall School of Law.

24 And none of the items we're voting on today have

1 to do with King Hall, so I'm not recusing myself, but just
2 by way of disclosure wanted to make that clear.

3 CHAIRPERSON WEISENMILLER: Thank you.

4 A motion?

5 COMMISSIONER MC ALLISTER: I'll move the consent
6 agenda, Item 1.

7 COMMISSIONER DOUGLAS: Second.

8 CHAIRPERSON WEISENMILLER: Okay, all those in
9 favor?

10 (Ayes)

11 CHAIRPERSON WEISENMILLER: The consent calendar,
12 except for Item h is moved unanimously.

13 Item 2, no items today.

14 So, let's go on to Item 3. This is the 2013
15 Public Domain Residential Compliance Software. And we'll
16 have a presentation that covers both 3 and 4, although we
17 will vote separately on Items 3 and Items 4.

18 So with that, Martha Brooks.

19 MS. BROOK: Good morning Commissioners. We're
20 here today to seek approval of the 2013 Standards and
21 Compliance Software, both the tool for residential
22 buildings and the tool for nonresidential buildings.

23 And, hopefully, this will work.

24 So, what I'd like to do is provide you with a
25 little bit of background in terms of public domain

1 compliance software, which is the topic of these agenda
2 items.

3 I'll briefly explain the vision we had going
4 forward for these projects and then explain to you the
5 details of the status and efforts going forward.

6 So, first of all, for background public domain
7 software is required by the Warren/Alquist Act to be
8 delivered by the Energy Commission for the purposes of the
9 Buildings Energy Efficiency Standards.

10 Public domain software is needed to estimate the
11 energy use of buildings considering the aspects of Title
12 24, Part 6 and Title 24, Part 11.

13 This software needs to be able to estimate the
14 energy use for building envelope, space heating, cooling,
15 lighting, ventilation, water heating and some process loads
16 in buildings.

17 It's used during the standards development
18 process to understand the impact of proposed changes.

19 Public domain software is also needed to
20 implement the performance compliance approach which is
21 specified in the standards. And this is actually what
22 we're asking for your approval on today is this second
23 need.

24 This compliance software needs to model the
25 performance of building designs using the building energy

1 simulation tools which produce hourly energy estimates,
2 some to annual building energy budgets and proposed
3 building energy budget as compared to a standard design,
4 which is basically that same building that meets the
5 prescriptive requirements of our standards.

6 Public domain software, you know, what does that
7 mean? What does that term mean?

8 It's Energy Commission staffs' opinion that
9 public domain software needs to be available to the public
10 for its intended use at no or low cost.

11 The public needs to have access to the source
12 code for development of derivative works.

13 So, because we're providing this public domain
14 software there are, actually, many things that could be
15 done with it outside of the limited compliance use that
16 we're responsible for. And so, public domain software
17 should have the ability to provide that leverage for
18 private parties to innovate with.

19 Access to all data, logic and code is necessary
20 to understand, review and critique the implementation of
21 the performance compliance approach.

22 And the other important, you know, thing that we
23 need to remember is that public domain software will always
24 be limited based on the available public resources.

25 So, that means that we need to focus our limited

1 resources on the essential parts of the software and
2 really think about a system that -- where we can start to
3 build public and private partnerships.

4 The current issues that we have with probably the
5 last 15 years of our provision of public domain software is
6 that we've been constrained by the type of software
7 licenses that we obtain for the public domain software.

8 So, we've had limited licenses to distribute only
9 proprietary software. We don't own the software that we
10 use now and have used for the last 15 years, which means
11 that we have no ability to fix bugs or update the software
12 without ongoing, noncompetitive contracting.

13 And we have no ability for the technical staff of
14 the Energy Commission to contribute to the software updates
15 needed for standards development or other building science
16 research.

17 There's a very constrained ability for new,
18 third-party vendors to enter the compliance software
19 market. We've had the same two software vendors in the
20 residential compliance software market for the last 20 plus
21 years.

22 And though they've provided excellent service to
23 the industry there have been multiple organizations,
24 companies that have come to the Energy Commission wanting
25 to enter this market and have it -- the barriers to that

1 entry just insurmountable.

2 The other situation we have today is that there's
3 multiple interpretations of the rules for implementing the
4 performance compliance approach because third-party vendors
5 are actually making those interpretations, and then the
6 Energy Commission reviews and approves that software. And
7 it's virtually impossible to eliminate multiple
8 interpretations or to test the software to the extent
9 necessary to actually identify each and every possible
10 multiple interpretation.

11 Most importantly for our work going forward with
12 energy efficiency, the standard compliance tools are
13 completely separate from architectural and mechanical
14 design tools, especially in the nonres marketplace.

15 So that means that code compliance efforts are
16 not integrated in design practices. Typically, the design
17 process goes along using their own set of tools and then a
18 compliance analysis is done near the end of the process.

19 And this basically means that energy efficiency
20 decisions can only be incremental because most of the big
21 decisions have already been made. And any really
22 innovative changes are pretty much impossible.

23 So, finally, for our policy goals going forward
24 in the State we really need to update the underlying
25 building energy analysis tool within the compliance

1 software to include technologies and building practices
2 necessary to achieve zero net energy buildings.

3 The current residential building simulation
4 software has simplifying assumptions that limit the ability
5 to model solar gains, thermal mass, ventilation,
6 infiltration and HVAC system performance.

7 The current nonresidential building energy
8 simulation software has not been updated or supported for
9 over 15 years so there are many limitations to the modeling
10 envelope and mechanical building energy components.

11 So our vision going forward, in terms of like
12 where we were three years ago when we were thinking about
13 how to achieve where we are today, in terms of seeking your
14 approval for compliance software was to collaborate with
15 other publicly-funded entities to develop and update rule-
16 based building energy analysis software.

17 So, this diagram on the screen now sort of
18 identifies the core kind of blue -- blue-colored boxes is
19 what we are bringing forward today and what we've developed
20 over the last three years, which is a core set of software
21 tools to implement rule-based building energy analysis.

22 We've separated the rules engine from the
23 simulation engine on purpose so that there is, potentially,
24 more innovation available to third-party vendors.

25 So, for example, if a third-party vendor has a

1 really slick user interface with a lot of bells and
2 whistles, but they don't have compliance functionality in
3 their tool, they can hook into our software and provide
4 that compliance functionality within their design tool that
5 meets other needs for the marketplace.

6 And, similarly, there's the potential for the
7 rules engine and the reporting module to work with other
8 simulation engines. So, this will be explained more when
9 we get to the nonres details.

10 So, this modular rule-based software architecture
11 also allows for modifying performance compliance rules,
12 which is needed during the standards update cycle.

13 So, with this architecture we'll be able to
14 actually model standards updates that are proposed during
15 the pre-rulemaking activities for future updates during the
16 pre-rulemaking and rulemaking activities.

17 So, we won't have to wait, like we have in the
18 past for, really, determination of performance options to
19 offset prescriptive requirements.

20 Another key benefit of this architecture is that
21 it allows for multiple rules to be implemented without
22 recompiling or reprogramming source code.

23 So, for example, you can imagine a different rule
24 set for beyond-code programs, like our REACH Standards, or
25 Utility New Construction Programs.

1 National and international standards could use
2 this architecture to implement their own rules for
3 performance compliance. And you could even think of other
4 existing building policies, like a rating system could be
5 implemented with this architecture.

6 So, again, we think that this vision should
7 encourage integration of performance compliance and
8 architectural mechanical design tools, and we're also -- we
9 also see where if we stick to data exchange standards in
10 the industry then there's again this ability to facilitate
11 and streamline connections with this software architecture
12 with other tools.

13 And, finally, we think it's important to
14 distribute the software under an open source license. So,
15 the license that we're choosing for the software that we're
16 seeking approval for today is a very liberal open source
17 license, there's no obligation for derivative works to
18 contribute back to our software code base.

19 So, this really facilitates market adoption.
20 People can take our software and innovate, and really
21 benefit from the public investments we've made.

22 And there's no costs for access and use of the
23 CEC-funded software under the assumption that we've already
24 paid for it with public funds and, therefore, it's sort of
25 already been paid for.

1 So, our plan for 2013 software is to leverage
2 all appropriate public investments in building energy
3 software tools.

4 So, what we're doing for this set of software
5 tools is using a rule-based software architecture
6 originally developed in 1997 for ASHRE 90.1 Code
7 Compliance, funded by U.S. Department of Energy via the
8 Pacific Northwest National Laboratory.

9 We're using the same software architecture for
10 both residential and nonresidential compliance software
11 programs.

12 So this really allows us, going forward, to have
13 a really -- you know, a core set of support for the
14 software. We don't have to have a separate support team
15 for both software programs. And the ability to learn it,
16 and understand it, and leverage it is extended because of
17 this commonality between residential and nonresidential
18 tools.

19 We have a web-based report generator that's
20 separate from the analysis software. So, we're using the
21 same report generator for both the residential and
22 nonresidential compliance reporting.

23 We have better, more secure connections with HERS
24 and nonres registries going forward.

25 And we have the ability to generate third-party

1 reports for other purposes, for example utility incentive
2 programs.

3 And this is important because historically the
4 compliance software report, the compliance report has been
5 used for multiple purposes and there's always this urge to
6 change the compliance report to add information and to
7 change information. Not for compliance purposes, but for
8 other purposes beyond code compliance.

9 So, with this web-based report generator, that's
10 also open source, it allows anybody to generate a separate
11 report using the same results that come out of compliance
12 software.

13 COMMISSIONER MC ALLISTER: Who are those any
14 bodies?

15 MS. BROOK: Well, for example --

16 COMMISSIONER MC ALLISTER: Local jurisdictions,
17 things like that?

18 MS. BROOK: Local jurisdictions, utility
19 programs. You know, you can imagine there might be a LEAD
20 report that could come out of the nonresidential software,
21 for example.

22 And we do intend to distribute the software under
23 an open source license.

24 And we're naming the software for the 2013
25 software California Building Energy Code Compliance, or

1 CBECC. So, I'll be referring to CBECC Res and CBECC Com
2 for the two tools that I'll explain next.

3 So, the 2013 residential compliance software,
4 sort of a high level architecture here, everything in the
5 blue box we're naming the Compliance Manager.

6 That includes the rules engine, the report
7 generator, the simulation tool called CSE, standards for
8 California Stimulation Engine.

9 And we have a separate Title 24 domestic hot
10 water algorithm module.

11 So, all of that in the blue box is hooked to our
12 CBECC Res user interface and that is also how other third-
13 party vendors will hook into this compliance functionality.

14 We do require, for 2013, that all third-party
15 programs use this Compliance Manager to eliminate the
16 multiple interpretations of the performance compliance
17 approach.

18 We've already got -- we've been spending time
19 with one software vendor who's successfully done this
20 integration, and is now testing his software and getting it
21 ready for certification.

22 The California Simulation Engine is an energy
23 analysis engine focused on residential construction in
24 California. It was co-funded by the Energy Commission,
25 including PIER, and the California Investor-Owned

1 Utilities' Codes and Standards Program.

2 It focuses on building envelope heat and mass
3 transfer, and the impact of heating and cooling systems
4 from typical California constructions, for example ducts
5 and hot attics.

6 It incorporates best in class building energy
7 modeling. We are using a Windows algorithm from ASHRE. We
8 have a new Air Flow Network Model to account for natural
9 ventilation, mechanical ventilation and infiltration.

10 We have a detailed Attic and Crawl Space Model.
11 We have a brand-new Heat Pump Model that accounts for the
12 climate specific benefits and limitations of this
13 technology.

14 We also have a Water Heating System Model named
15 Title 24 DHW, developed and supported by Energy Commission
16 staff. And it includes new, more detailed modeling of
17 multi-family recirculation systems.

18 The version of the software that we're seeking
19 approval from you today is only for newly constructed
20 homes, single family and low rise multi-family, with
21 conventional building construction materials, conventional
22 and ventilated cooling, heating and cooling systems, and
23 good coverage of water heating system options.

24 It passes a suite of tests designed to check that
25 the performance compliance rules are implemented correctly.

1 The test results are publicly available on our website.

2 And the Compliance Manager software is also fully
3 operational. And as I said, third-party vendor support is
4 ongoing.

5 The CBECC Res software installation includes a
6 quick start guide which opens upon successful installation.
7 And it includes instructions for reporting issues, reusing
8 a Google code site process for logging issues with the
9 software. We've been doing this within the project team
10 for the full development cycle of the software and now
11 we're opening up the issues process to the public. So that
12 if there's a problem that they find with the software,
13 we'll be able to really support that well and resolve it
14 quickly.

15 The installation also includes a user's manual
16 and detailed example files to get people started with the
17 new software.

18 For the 2013 Nonresidential Compliance software
19 we have a similar high level architecture. In this case
20 the Compliance Manager can be used by third-party software,
21 but it's not required to be used.

22 And this is typically because Energy Plus is
23 still relatively new in terms of compliance analysis. And
24 there are also innovative building energy analysis tools in
25 the nonresidential market that we don't want to eliminate

1 from joining us and being able to do compliance
2 processing.

3 MR. BREHLER: And we should also note for the
4 record and for the audience that this presentation, if it
5 hasn't already been posted to the backup materials, will be
6 for the record. And that way these diagrams and things --
7 we'll know what we're talking about later.

8 MS. BROOK: Okay, thank you.

9 Energy Plus is an energy analysis engine focused
10 on commercial buildings. It's supported by U.S. Department
11 of Energy over the last 15 years, including the
12 prioritization of U.S. Department of Energy to focus on the
13 work needed in Energy Plus to facilitate our adoption of
14 the 2013 standards of this energy analysis tool.

15 It includes contributes from PIER-funded research
16 and development for several technologies applicable to
17 California climates, including natural ventilation
18 modeling, displacement ventilation, under-floor air
19 distribution modeling, and evaporative cooling modeling.
20 And it is distributed under an open source license.

21 We're also using Open Studio as a layer on top of
22 Energy Plus. It's also developed by U.S. Department of
23 Energy through the National Renewable Energy Laboratory.
24 It's used to complete the Building Energy Model
25 translations between our rules engine and Energy Plus. And

1 so it spawns Energy Plus simulations and retrieves
2 results. And it's also distributed under an open source
3 license.

4 For water heating systems we're using Energy Plus
5 for simple systems and the same Title 24 DHW module for
6 central systems that is in the CBECC Res tool.

7 One fundamental thing that we've established for
8 CBECC Com is because we have limited resources and we
9 didn't feel that public resources should be spend on a
10 slick and glossy interface we're trying to use, you know,
11 best practice workflow technology in terms of data exchange
12 standards to allow geometry, which is the hardest thing to
13 describe in a building energy simulation tool, to be
14 imported from other architectural and design tools.

15 So, we're using Green Building XML which, again,
16 a first version was co-funded by PIER 13 years ago, and
17 that's continued to thrive in the marketplace and has
18 become the industry standard for geometry data exchange.

19 So, we're using that process to get geometry into
20 CBECC Com.

21 You can also do it the hard way. We have the
22 interface capabilities for you to -- you know, for every
23 wall and window to define the dimensions the old-fashioned
24 way. But we think this work flow will be adopted widely.

25 COMMISSIONER MC ALLISTER: So, Martha, just to be

1 clear, so long-time users of Energy Plus may actually do
2 it that way, the old-fashioned way, right, or the long-time
3 users of sort of the core software that this would be
4 layered onto or used with.

5 MS. BROOK: It really depends. Most of the
6 mechanical design tools that are partnering with us to
7 integrate the compliance functionality already have their
8 own -- either they import geometry into their tool and then
9 can pass it along to the compliance processing piece, or
10 they have their own innovative way to enter geometry. And
11 again, as long as they use that data exchange standard that
12 will work for this, also.

13 COMMISSIONER MC ALLISTER: Good. Okay, thanks.

14 MS. BROOK: The first version of CBECC Com that
15 we're asking approval on today is, again, only for newly
16 constructed buildings. It covers the most common heating,
17 and cooling, and ventilation systems for nonresidential
18 buildings. It supports the full range of expected envelope
19 constructions. There is multiple compliance approaches for
20 indoor lighting supported.

21 But the current first version would not include
22 water heating or daylighting in the performance budget and
23 so those two items would need to be complied with
24 prescriptively.

25 The first version of the software passes two

1 suites of tests. The test designed to check that the
2 performance compliance rules are implemented correctly and
3 tests designed to check that the underlying energy analyses
4 are relatively accurate.

5 And again, these tests are publicly available on
6 the Energy Commission Website.

7 MR. BREHLER: And those are part of the backup
8 materials showing that the software meets the standards.

9 MS. BROOK: Uh-hum. Thank you.

10 CBECC Com software installation also includes the
11 same three things, a quick start guide, including
12 instructions for reporting issues, a detailed user's manual
13 and example files.

14 Ongoing CBECC activities, we're focusing over the
15 next three months to complete additions and alternations
16 performance approach for CBECC Res and add additional
17 construction materials and assemblies to the capabilities
18 list.

19 For CBECC Com we're going to complete water
20 heating very quickly and also add HVAC system types and
21 control options, daylighting controls, and makes sure that
22 it works for additions and alterations.

23 We've also committed to providing a simplified
24 tradeoff approach for roof replacements within that CBECC
25 Com tool.

1 For both the tools we're continuing to support
2 third-party compliance software vendors. We're planning
3 to release source code under an open source license by
4 January. And we're committed to providing support to HERS
5 providers and building departments to improve the
6 compliance reporting, if necessary.

7 And kind of the long-term view for this suite of
8 tools is to continue to improve it over time. We have the
9 ability, now, and the resources allocated to have ongoing
10 fixes of any bugs that occur, and provide vendor support,
11 add functionality, and consider new compliance options.

12 For the 2016 standards we will modify the rule
13 set and other components to analyze the impacts of the
14 standards. And our plan is to update this during the
15 rulemaking, as I had previously said.

16 We also have a project starting with the
17 California Joint Utilities, Southern California Edison,
18 Pacific Gas & Electric, San Diego Gas & Electric and SMUD
19 are working together to develop full building energy
20 analysis tools for their Savings by Design and other
21 calculated incentive programs. And they're planning to use
22 this CBECC architecture in their work going forward.

23 They also have interests from national and
24 international code bodies to take advantage of this
25 software architecture.

1 The U.S. Department of Energy is planning to
2 fund a rule set for ASHRE 9.1, probably in the next year or
3 so.

4 And India and Canada have also expressed interest
5 in this software architecture for nonresidential building
6 code compliance.

7 So, that concludes my presentation. We're here
8 to request approval for CBECC Res Version 1.0 and CBECC Com
9 Version 1.0 as the public domain computer programs required
10 by the Warren/Alquist Act under Public Resource Code
11 Section 25402.1(a).

12 The project lead for CBECC Res, Bruce Wilcox, is
13 here and I'm here. And I don't know what happened to
14 Dimitri. He was planning to be here. He's here. Okay,
15 good.

16 So, we're here to answer any questions that you
17 have at this time.

18 CHAIRPERSON WEISENMILLER: Thank you. Let's
19 first hear from the public. Let's start with Bob Raymer.

20 MR. RAYMER: Thank you, Mr. Chairman and
21 Commissioners. I'm Bob Raymer with the California Building
22 Industry Association.

23 I'd like to start off by saying we strongly
24 support approval of both of these programs today. And I
25 guess, through the Chair, if I could ask staff a question?

1 CHAIRPERSON WEISENMILLER: Sure, sure, go ahead.

2 MR. RAYMER: How do we go about getting our hands
3 on this, now? For example, how would a builder in Folsom
4 or a building official in Folsom gain access to this
5 program?

6 MS. BROOK: So, what we're planning to do is
7 there's a few things we have to button up in terms of --
8 like one of the requirements for the user's manual is to
9 get a resolution from the Commission that says that the
10 software is approved and that has to be placed into the
11 user's manual.

12 We have to do the final checks on all of the
13 security issues with the software. But we are planning to
14 do all that by the end of the week and have the software
15 posted at the project websites, with links from our
16 website, by the end of the week.

17 MR. RAYMER: Well, that's very timely because
18 every Monday we have sort of an e-Alert that goes out to
19 our 4,000 builder members and associate members.

20 And if possible, if you could provide me with the
21 content of that and whatever links are possible, we would
22 like to get the word out very quickly.

23 And the reason being, and I think this problem is
24 perhaps going to take care of itself, given the description
25 that we just had -- one of the biggest concerns I have in

25

1 the development of rulemakings in the future, we have for
2 the last 15 years been sort of at a disadvantage.

3 As we develop a set of regulations we have to use
4 the existing certified computer software. And while that
5 can get you in the ballpark, it's difficult to get a very
6 accurate picture.

7 But from the description that Martha just
8 provided it seems like as we approach the 2016 adoption
9 we'll actually have access to a somewhat accurate tool that
10 can help us.

11 So, unlike back in May of 2012, where we were
12 supporting a set of regs that we are now going to be able
13 to accurately figure out exactly we bought into, that won't
14 be the case down the road.

15 Now, one concern I'd like to point out --

16 CHAIRPERSON WEISENMILLER: Well, actually, just
17 one second.

18 MR. RAYMER: Sure.

19 CHAIRPERSON WEISENMILLER: Martha, would you say
20 "yes" on the record instead of just nodding?

21 MS. BROOK: Oh, yes.

22 MR. RAYMER: Let the record -- well, one concern
23 that we've had, and forgive me for those of you that, you
24 know, have heard this before. It would be best for
25 industry to have access to this, as well as the building

1 officials to have access to these tools about nine months
2 in advance of the effective date.

3 And if I could give you an example that's close
4 to us right now, while I've been contacted by four of our
5 largest production buildings, here in town Elliott Homes,
6 based out of Folsom. They've got three projects right now
7 going in in Folsom, one in Lincoln, and one in Rancho
8 Cordova.

9 All five of these are sort of in concert with
10 SMUD. They're doing their best to try to produce a zero
11 net energy home. And they're very close, from what I can
12 see, in at least three of those Folsom projects. They're
13 going to have a nice chunk of solar on.

14 But more importantly, they're going to have
15 probably about a 45 to 50 percent increase in stringency
16 above today's standards.

17 Okay, now, given that the new standards will take
18 us about 25 percent more stringent on a statewide basis,
19 they're clearly going to be in compliance with the new
20 standards.

21 Here's the problem. The local building
22 department, particularly in Folsom, doesn't have access to
23 the certified program to show compliance. They don't have
24 access to the certified documentation that is needed to
25 show compliance.

1 So, even though everybody's shaking their heads
2 going, Mr. Elliott, we understand your homes go way above
3 code, he can't submit plan check right now.

4 He's stuck. And so it's a very frustrating place
5 to be in. He can certainly submit under the current regs
6 but, obviously, he's going to be building out, now, the
7 economy's getting better. He's going to be building out
8 these homes for the next two to three years.

9 And so he would much rather submit under one set
10 of plan check design. In essence, he wants to comply early
11 with the new 2013 regulations. It's just for lack of the
12 certified program and for lack of the certified compliance
13 documentation he's unable to do that right now.

14 So, once again, it seems like you're hearing in
15 the right direction down the road. We just have to get
16 through this hiccup right now.

17 CHAIRPERSON WEISENMILLER: Now, Bob, one question
18 is obviously the good news is the resurgence of the housing
19 industry. Are there specific areas we could target or
20 focus our activities to try to help?

21 MR. RAYMER: Yes.

22 CHAIRPERSON WEISENMILLER: Or is this a statewide
23 phenomenon? I guess I'm trying to understand.

24 MR. RAYMER: I would have to say that we probably
25 have in the top ten of the production builders. For a

1 custom home this isn't an issue. You build to whatever is
2 in effect the day you submit your permit application.

3 But for these long-range projects I would have to
4 think that four builders come to mind. In addition to
5 Elliott, I've been contacted by KB Home, Lennar and Shea,
6 who also happen to be builders who are avidly using solar
7 right now, and so all of this works together.

8 To the extent that I can make contact, once I
9 have the information that Martha will be providing at the
10 end of the week, I can get in contact with their people
11 and, basically, we could all work together.

12 It will probably involve some kind of contact
13 between the CEC and local building departments.

14 But the local building departments just want to
15 hear from the regulatory agency all is well. And that will
16 be of enormous help.

17 But we'll cross that bridge over the next couple
18 of weeks. It's frustrating right now but it sounds like in
19 2016 you may well have this taken care of.

20 CHAIRPERSON WEISENMILLER: Right. And if there's
21 anything we can do to sort of deal with the bottlenecks,
22 now, certainly we'll commit to do that.

23 COMMISSIONER MC ALLISTER: Yes, I really
24 appreciate your coming, Bob. And, really, you know, I
25 think my overall interest here is making sure that the

1 marketplace has some predictability and consistency going
2 forward.

3 And, you know, I know that we're all taking this
4 extremely seriously. You can hear it in Martha's voice,
5 absolutely. And, you know, it's a big lift this time. You
6 know, frankly, we are refreshing this whole system and so
7 it is a particularly big lift. You know, the vision here
8 is fantastic and the execution to now I think has been
9 excellent on staff's part.

10 You know, certainly, with a quarter to go, or so,
11 a little more to January 1st, you know, definitely under
12 the gun. I think we all acknowledge that.

13 But if there are particular market issues that
14 you're aware, you know, that's the customer for all of this
15 is the building departments, and the builders, and the
16 folks who really use this thing day in and day out.

17 And going forward, you know, I think it's clear,
18 as Martha indicated, you know, this is a living process. I
19 mean this is open source software so it will improve over
20 time and that's to be expected. So, also just going
21 forward we have a path that is relatively clear.

22 And so your and your industry's feedback along
23 the way is really critical to just make it the best it can
24 be on an ongoing fashion, not just before January 1st. But
25 in the meantime we're definitely under the gun to get this

1 thing done.

2 And we want to just make sure that when you see a
3 flag that gets raised and you hear a concern that we hear
4 about it as quickly as possible, and can do our best to
5 solve it.

6 MR. RAYMER: Fantastic. And we appreciate that
7 and we'll definitely be taking you up on the offer to sort
8 of bring everybody together in the case of Folsom.

9 I'm meeting with the Folsom building official
10 Friday, along with the builders at issue here. And I'll be
11 informing them, of course, assuming that certification
12 happens today, that this is well on its way to being taken
13 care of. And we'll find the appropriate people to link up
14 with the staff, so thank you very much.

15 COMMISSIONER MC ALLISTER: I do want to -- at
16 some point, it doesn't have to be right now, but I just
17 want to make sure not to forget that, you know, Martha, if
18 you can describe at some point, and perhaps it will come up
19 in some of the other comments, but just what the
20 stakeholder input, and involvement, and engagement has been
21 up to now, you know, on each of the two tools. That would
22 be helpful to have, too.

23 MS. BROOK: Okay. So, did you want me to do that
24 now or later?

25 COMMISSIONER MC ALLISTER: Let's go ahead and do

31

1 public comment, yeah.

2 MS. BROOK: Okay.

3 CHAIRPERSON WEISENMILLER: We have at least two
4 more. So, Patrick.

5 MR. SPLITT: Good morning Commissioners and
6 everyone else. I basically just have one particular topic
7 that I want to talk about.

8 CHAIRPERSON WEISENMILLER: Actually, just for the
9 record, for our reporter would you introduce yourself
10 and --

11 MR. SPLITT: Patrick Splitt. I'm President of
12 App-Tech, Incorporated in Santa Cruz. We're energy
13 consultants and residential and mechanical designers.

14 CHAIRPERSON WEISENMILLER: Okay, thank you, yeah.

15 MR. SPLITT: Certainly. So, I sent a little
16 "miss" about a couple of days ago and it was basically
17 based on the latest beta version of the software that just
18 came out last Thursday, so that's why you just got this, I
19 just got the software.

20 I'm particularly interested, in my area, Coastal
21 California, we don't have production builders. All the
22 homes are considered custom homes, even homes built by
23 Habitat for Humanity, they're all one-offs.

24 And in my area the zero net energy or low energy
25 homes don't use mechanical systems based on forced air

1 furnaces. The real low energy homes are all based on some
2 sort of a hydronic system, ground source heat pump, air to
3 water heat pumps, or mini-split heat pumps.

4 And I'm particularly interested in ground source
5 heat pumps and air to water heat pumps because I've been
6 working on that for three years.

7 And, currently, there's a method for modeling
8 those in residential standards so you can input, model EER
9 and COP. But as far as I've been able to determine the new
10 software you can't do that.

11 And in my paper I enumerated a bunch of problems.
12 One, you can't qualify for rebates and this is more
13 expensive equipment where you need the rebate to offset the
14 cost.

15 If you're going to a city like San Francisco,
16 that has a REACH Code, you have to be able to do
17 performance calculations to even get a building permit.

18 So, you can't tell somebody who's spent all this
19 money on this new, advanced, high-tech equipment that,
20 well, that's all very good but if you can't model it, we
21 can't give you a building permit.

22 So, there's a lot of problems. And I spoke to
23 Bruce about a year ago about this, and it seemed like it's
24 not -- it wouldn't be that difficult to actually do this,
25 get the ability to input COP and EER for combined hydronic

1 systems. And it has to happen or else there's just going
2 to be huge amount of problems.

3 It should happen by the end of the year, and it's
4 possible, but I don't know the workload. I'm sure Bruce is
5 going to say hmmm --

6 But in a practical matter, if it was available by
7 the end of January that would be soon enough.

8 MS. BROOK: Okay.

9 MR. SPLITT: Because what's going to happen in
10 residential construction, everybody who has a project that
11 they can possibly get even halfway together they're going
12 to submit for a permit in December.

13 Because it's not only the energy code that's
14 changing, all the codes are changing, so there's a huge
15 expense if they have to go over that line.

16 So, they're going to submit in December and then
17 they'll be all January going over the plan check comments
18 and finishing the plans that they really didn't finish.
19 So, there really won't be any new jobs coming in in
20 January, anyway.

21 So, if it was by the end of January that would
22 work. And it just has to happen.

23 CHAIRPERSON WEISENMILLER: Let me first ask
24 Martha and then Bruce to respond.

25 MS. BROOK: Okay, so I feel like I somehow like

1 set this up because I really like what Pat's saying.

2 So, one of the things that I did mention is that
3 we do have a brand-new heat pump model and one of the
4 things that it requires is additional metrics for
5 performance at two key outdoor air temperature settings.
6 And we actually have verified that the heat pump model
7 meets the national kind of comparative testing for that
8 technology. So, we're pretty confident that it's working
9 well.

10 But the problem with ground source heat pumps is
11 that it's not air temperature, it's ground temperature.
12 And, you know, we are working with the ground source heat
13 pump industry to kind of work through the performance
14 issues, and what metrics we need, and how they can be
15 verified so that we can get them into our performance
16 compliance approach because we agree and know the need to
17 do that for low energy buildings.

18 So, we think we -- we have the architecture to do
19 it. And what Pat is exemplifying is exactly one of the
20 benefits we hope to get out of this new architecture is
21 that we can work with industry and we can work with
22 stakeholders, together, to figure out how to model new
23 technologies so --

24 COMMISSIONER MC ALLISTER: Well, this was also --
25 you know, in the IEPR we had a heat pump workshop --

1 MS. BROOK: Right.

2 COMMISSIONER MC ALLISTER: I'm sorry, that was
3 geothermal heat pumps, I'm sorry. But we had -- you know,
4 we definitely -- in various industry categories we're
5 definitely -- this is a model for the Energy Commission to
6 really get it right.

7 MS. BROOK: Right, right, right.

8 COMMISSIONER MC ALLISTER: And so I think working
9 with industry to figure out what the technical strengths
10 are, are really important.

11 MS. BROOK: Right. And so the thing we have to
12 work out with Pat and others is that we actually do have
13 that simplified approach where you do some modifications of
14 an EER and a COP to get an HSPF or the other metric that
15 you need to model it.

16 COMMISSIONER MC ALLISTER: Yeah.

17 MS. BROOK: But we're really uncomfortable with
18 that. It just seems like that really isn't grounded in
19 true, you know, actual performance and we need to make sure
20 that we're treating ground source heat pumps the same way
21 we're treating every other technology.

22 COMMISSIONER MC ALLISTER: Right.

23 MS. BROOK: So, we just need to work through that
24 with Pat and others.

25 You know, I think that the architecture that we

1 have and the resources that we have available, there's a
2 good chance that we could do it within his time frame.

3 Now, in terms of the combined hydronic systems,
4 we do have the simplified combined hydronic implementation
5 already done.

6 And probably what Pat needs next is the -- if
7 you've got extensive pipe losses, we haven't integrated
8 that level of detail into our model, yet, but it's
9 certainly on our list.

10 So, I don't know, Bruce, did you want to add
11 anything?

12 MR. SPLITT: Well, let me just mention about the
13 combined hydronic. Right now, if I read the manual
14 correctly, the only way to do a combined hydronic with a
15 heat pump is to say it's a heat pump water heater, in which
16 case you need to input an energy factor.

17 MS. BROOK: Right.

18 MR. SPLITT: So, I want to be able enter EER and
19 COP just, you know --

20 MS. BROOK: Okay, so we'll have to work out those
21 details. I appreciate that.

22 So, I guess what you're witnessing in front of
23 your eyes, hopefully is, you know, the beginning of a
24 collaboration which is sort of the vision that we started
25 out with.

1 And the other thing I guess I would mention is
2 that nobody knows how to use the software, yet. So, we
3 have had one public webinar on the residential tool, but we
4 probably need to do another one or figure out maybe a
5 better, more streamlined way to record a webinar session,
6 or something, that's just available at all times for people
7 to have some sort of tutorial.

8 The user's manual is good but, you know, we can
9 continue to find ways to support the new users of the
10 software.

11 COMMISSIONER MC ALLISTER: So, I mean, I think
12 that in general -- well, all of the points you've mentioned
13 absolutely are right on and I think the process is very
14 important going forward, the collaborative nature, the
15 really sound, technical fundamentals that are in the core
16 tool, and then the ability to interface with the
17 marketplace to do the APIs and sort of let people use it
18 how they need to.

19 But, you know, I think the big thing on
20 everybody's mind is timing and just getting this done. And
21 so I think, you know, in previous Business Meetings and in
22 our briefings back and forth, and kind of just ongoing work
23 on this, you know, I think that's always front of mind,
24 that's always top of the mind with everybody is get it done
25 on time.

1 And if we have constraints, you know, trying to
2 overcome them.

3 And so, I think, you know, very much appreciate
4 the task at hand, for sure, but also we're pretty much on
5 the critical path and we've got to keep on the critical
6 path. So, I just want to make that clear as well.

7 So, really appreciate all of your effort on this,
8 Martha.

9 MR. SPLITT: Yeah, I just want to make one
10 comment to what Martha brought up is that I'm also more
11 involved with air to water heat pumps than with ground
12 source, so I'm mainly considering those.

13 And I'm right now working with the Appliance
14 Standards Group to try to implement a new standard, which
15 actually the Commission has already adopted as a reference
16 standard, HRI 5-5590 (phonetic) for air to water heat
17 pumps, and make that the standard for all air to water heat
18 pumps.

19 And that is an ANCI approved national standard
20 and it does test to both the 47 and the 17, so it will be
21 the numbers that you're looking for.

22 MS. BROOK: Great, great. Thank you, Pat.

23 MR. SPLITT: Okay, thank you.

24 CHAIRPERSON WEISENMILLER: Okay, thank you.

25 I don't believe there's anyone else in the room

1 with comments on this, but I believe we have George
2 Nesbitt on the line.

3 MR. NESBITT: Can you hear me?

4 CHAIRPERSON WEISENMILLER: Yes.

5 MR. NESBITT: Yes, George Nesbitt, Environmental
6 Design Build. I'm a building performance contractor, HERS
7 rater, energy consultant.

8 And I have supported the idea of having the core
9 calculation engine as a required part of any software from
10 the beginning because I am both a Micropath and an Energy
11 Pro user. And having inputted the same buildings into
12 those programs and having gotten different answers I find
13 very unacceptable.

14 Since code compliance, as well as above-code
15 compliance, and the rebates, and such things are calculated
16 off of the answer you get, one program may or may not give
17 you a better or worse answer, and sometimes it changes.

18 I have been reviewing the CBECC Res since late
19 May and June, and I have found it very easy to use. It's
20 very familiar, say, to people that use Energy Pro more than
21 Micropath, but it has the structure, a lot of the structure
22 of Micropath.

23 And so, hopefully, especially when we get to
24 existing-plus-alteration, hopefully, we'll have full
25 functionality to be able to alter every component.

1 The biggest problem I've had is the calculation
2 time. What used to take ten seconds can take four minutes.
3 And a larger, more complicated file takes even longer. Ten
4 minutes for the small, multi-family example, which is not a
5 very --

6 I am concerned about when we get to other
7 interfaces and whether those interfaces will work right
8 with the calculation engine, and whether we will maintain
9 full functionality in being able to use things.

10 I could use this tool as it is for basic
11 compliance. I'm going to probably -- I'm going to have to
12 use a different program in order to probably do utility
13 rebate programs, and all the other things, since that won't
14 be built in.

15 I don't think that the tool should be necessarily
16 free to the end-user, like me. I mean, that would
17 certainly -- it helps to sway -- in fact, I think it's
18 already swayed one person from staying in the market.

19 Obviously, we need the features that are not
20 functional, yet, to be added in, but I'm really happy
21 overall with what I've seen and played with.

22 Although, I just looked at the CF1R yesterday for
23 the first time and it's very hard to read. We definitely
24 need to work on output of a compliance form so it's easy to
25 read, it's clear what HERS measures are required.

1 You know, so thank you.

2 CHAIRPERSON WEISENMILLER: Thank you.

3 Okay, Commissioners any questions, comments?

4 COMMISSIONER MC ALLISTER: I have just a couple
5 more questions, a couple of comments.

6 So, just I wanted to highlight, you know, I'm not
7 sure whether the other Commissioners have all gotten
8 briefings on this. This is a highly technical -- a lot of
9 history behind this.

10 The progression here gets highly technical pretty
11 quick and does take some digging into.

12 So, you know, I wanted to just highlight the
13 benefits of the vision and sort of where we're going here,
14 in particular the keying off of some DOE tools. I think
15 that is really a great collaboration, you know, energy, the
16 DOE tools that open -- what is it?

17 MS. BROOK: Open Studio.

18 COMMISSIONER MC ALLISTER: Yeah, Open Studio,
19 Energy Plus. Those are long-term tools that are
20 acknowledged in the market, I think really accurate, could
21 really do what's needed. And our collaboration with DOE on
22 these tools I think just really -- it means that the Energy
23 Commission and California, in general, doesn't have to
24 reinvent another wheel and put State resources into this.
25 So, we can collaborate with existing tools, existing

1 stakeholders and we already just speak the same language
2 and we can move on from there and write the novel, right.

3 So, I think that's really key and it's very
4 different from some of the ways we've approached things in
5 the past.

6 And I want to credit, you know, Martha and staff,
7 and Dave's team for moving this direction in the very
8 forefront because I think it's very positive.

9 And so, for a long-term gain there's a little bit
10 of short-term trauma and so that just means that we're
11 inventing something that allows this progression to take
12 place.

13 And it's an investment that going forward is
14 really going to pay off in spades, I think, both with
15 better buildings and, also, you know, being able to have a
16 solid foundation to improve upon going forward.

17 So, the next code cycle won't look a lot like
18 this because we'll be improving where we've already gotten
19 to, which I think is worth noting.

20 I did want to just ask a couple of questions.
21 So, since it's open source how will the open source-ness be
22 managed, I guess? And by that I just mean sort of who --
23 you know, who do you anticipate would be taking it? You
24 know, how would potential modifications be suggested and
25 then vetted by staff, and sort of to improve it going

1 forward?

2 I guess, it's sort of a process question, really.

3 MS. BROOK: So, we don't have all the answers to
4 that, you know, but we have adopted a very liberal open
5 source license. So, we don't actually require --

6 COMMISSIONER MC ALLISTER: Right.

7 MS. BROOK: -- anybody to contribute back to the
8 code base. But, of course, if it's innovative and great we
9 would love them to do that.

10 COMMISSIONER MC ALLISTER: Yeah.

11 MS. BROOK: You know, we are using kind of best
12 in class kind of software management processes, you know,
13 with the Google code site. So, we will set up an open
14 source, you know, website that allows people to download it
15 at their will.

16 And we can use either -- well, I haven't really
17 thought this out in the long term but, you know, we could
18 definitely set up a collaborative process where there's
19 prioritization and suggestions made by interest parties on
20 the evolution of the code base.

21 COMMISSIONER MC ALLISTER: Uh-hum.

22 MS. BROOK: So, for example, there's always
23 decisions to make about whether we do ground source heat
24 pumps first or, you know, heat recovery first, or what are
25 the next advancements and that's certainly where a

1 collaborative body would be great.

2 So, at first we're planning that that would be
3 informal. If there is interest and a need to make that a
4 formal kind of advisory board for the software, you know,
5 architecture we could do that as well.

6 COMMISSIONER MC ALLISTER: I think that's a great
7 possibility for innovation and sort of tapping folks who
8 have good input, I think, is really important, so having a
9 forum there. So, I'd just encourage that after January.

10 And then, really, the other point I wanted to
11 make was just to -- you know, I definitely hear
12 stakeholders wanting to get their hands on this thing and
13 put it through its paces, like George just described. And,
14 you know, I guess I would invite you to just talk about
15 who -- sort of what that interaction with the marketplaces
16 already look like and sort of who's been -- who's had
17 touched on the res and nonres and kind of what feedback
18 we've already gotten.

19 Because I think we feel like we're in a very good
20 position, and we have a good tool, and that we're
21 definitely hitting the milestone today. Staff does, I
22 know.

23 And I think, you know, for somebody who doesn't
24 have all the details sort of you fill in with your own
25 ideas of what it might look like, and let's just try to

1 orient folks about where we're at sort of in the
2 interaction with the marketplace already to date.

3 MS. BROOK: Okay. So, we set up a Project
4 Advisory Committee for each of the software projects, for
5 both residential -- separate committees for both res and
6 nonres, so there was a lot of overlap in terms of
7 membership based on just the industry and the marketplace.

8 And, you know, we met with each of those groups
9 several times. And for the residential tool we've been
10 sharing beta versions of the software since around
11 February, the January/February timeframe.

12 And then we eventually, in July, did a public
13 beta version that had passed a set of tests that we felt
14 comfortable was ready for public review.

15 On the nonresidential tool we didn't get an
16 opportunity to do that beta testing so there's certainly a
17 little, you know, discomfort from the industry in that
18 regard. And we completely understand that.

19 But we also have the resources in place to
20 provide the support that they need from this day forward.

21 And Dimitri can speak about that, if he chooses
22 to.

23 But, you know, compliance software always has
24 bugs and always needs continued support and so we're not --
25 what gets approved today, if it gets approved today, is not

1 going to be perfect. There's going to be things that need
2 to be fixed.

3 And I think what we want to communicate to you is
4 that we have a plan, we have the resources, you know, in
5 place, and the commitment from a really great set of teams
6 that have really sunk their heart into this work, and
7 really have their reputations on the line to deliver. And
8 I think that that's going to go a long way to meeting
9 everybody's needs in the next three months and in the long
10 term.

11 Did you want to add anything to that, Dimitri?

12 MR. CONTOYANNIS: Yeah, also -- excuse me, this
13 is Dimitri Contoyannis from AEC, the lead on the
14 nonresidential software project.

15 Through our public -- or our Program Advisory
16 Committee we've also reached out to a number of the third-
17 party vendors and provided them with specifications on the
18 data exchange protocols, dating back to earlier this year,
19 in the February or March timeframe. So, we've shared the
20 specification of the XML file format and given them the
21 kind of path to start to develop inputs for the Compliance
22 Manager and the nonres tool.

23 Informally, we've had a number of demonstrations
24 of the software over the past few months with industry
25 groups, including local energy modeling -- IBPSA chapters,

47

1 and that's the International Building Performance
2 Simulation Association.

3 So, you know, they've been highly interested in
4 this project for quite some time, so we've had some in-
5 person and web demonstrations with them. We've had some
6 demonstrations, hands-on demonstrations with the IOUs, as
7 well, who are also part of our pack.

8 So, you know, people are definitely excited to
9 get their hands on the software and we're excited to get it
10 out there this week.

11 COMMISSIONER MC ALLISTER: Yeah, I can totally
12 understand their desire to see the software.

13 I'm really happy to learn another acronym. That
14 just makes my day.

15 (Laughter)

16 COMMISSIONER MC ALLISTER: Yeah, but this just
17 goes to show this is highly specialized stuff. And so, you
18 know, you've got to have the right people in the room.

19 And, you know, our customers are down there at
20 the local building departments and, really, they're going
21 to see all the output from this and have to approve these
22 projects. And I just want them to have faith that what
23 they're getting is certainly ready for live time but, you
24 know, but goes beyond -- you know, sort of meets and
25 exceeds their expectations with respect to how they use

1 their time and how they can execute their jobs.

2 So, anyway, we all need to keep those guys in
3 mind, and I know you are. I mean, we've had this
4 conversation a number of times.

5 But, you know, I'm trying to put some gravitas on
6 this and I know you feel personal and professional pressure
7 to get this done, but I think I just want the stakeholders
8 in the world, and the builders, and everybody to know that
9 we're really serious about getting a good product to them
10 on time.

11 MS. BROOK: The one thing we did do on the nonres
12 side is we spent a solid two weeks really seriously chewing
13 on the compliance report format.

14 We have very experienced staff here, at the
15 Commission, that have done plan review and also done energy
16 consulting, and on the AEC team we have that same
17 expertise. So, we basically just, you know, really
18 reviewed the compliance report.

19 Because the problem with the current compliance
20 reporting is that it's too much information. It's like
21 gobs of information and so you really have a hard time
22 figuring out what's useful in that gigantic dataset.

23 And so we've really, clearly articulated key
24 summary information that could support plan checking. And
25 then we also will be providing a very detailed building

1 report that can be used for -- you know, if needed but,
2 hopefully, won't be needed.

3 COMMISSIONER MC ALLISTER: Great. Okay, well
4 thanks. I've kind of exhausted my current questions and
5 want to pass it to any other Commissioners who have
6 questions or comments.

7 COMMISSIONER DOUGLAS: I just want to say I
8 appreciate the hard work on this. The compliance software
9 is really a critical point in the implementation of the
10 standards and so I thank you for bringing that to us. I
11 know it's been a heavy lift and I know it's been long
12 awaited by some of our stakeholders.

13 COMMISSIONER MC ALLISTER: So, I will move Item
14 3.

15 MR. BREHLER: Excuse me, Commissioners --

16 COMMISSIONER MC ALLISTER: Oh, I'm sorry.

17 MR. BREHLER: I'm sorry.

18 COMMISSIONER MC ALLISTER: Go ahead.

19 MR. BREHLER: This is Pippin Brehler, Senior
20 Attorney with the Commission.

21 Martha mentioned in her presentation that there
22 may be a requirement that there actually be a resolution
23 that gets published. And I have a one-paragraph resolution
24 to read into the record for you and then that -- and then
25 we will memorialize that.

1 And if you vote on that, we'll memorialize that
2 and just in an abundance of caution we'll have everything
3 covered.

4 COMMISSIONER MC ALLISTER: Okay, great. So,
5 yeah, go ahead.

6 MR. BREHLER: So, "The Energy Commission approves
7 the California Building Energy Code Compliance Residential,
8 or CBECC Res version 1.0 and California Building Energy
9 Code Compliance Commercial, or CBECC Com version 1.0 for
10 estimating energy consumed by residential and
11 nonresidential buildings, respectively, under Public
12 Resources Code Section 25402.1(a), and for demonstrating
13 compliance respectively with the residential and
14 nonresidential provisions of the 2013 Building Energy
15 Efficiency Standards, California Code of Regulations Title
16 24 Parts 1 and 6."

17 Thank you.

18 COMMISSIONER MC ALLISTER: Okay, great. Thanks
19 Pippin.

20 So, I want to just finalize by saying I'm really
21 excited about getting to this milestone. It's pretty huge.
22 And I know I've been putting the screws to you guys and I
23 apologize, but I think we all recognize that this is really
24 important.

25 But, really, it's a big step forward and I want

1 to just thank Martha and staff for all of their hard work
2 on this. It's really quite a bit deal and I think it's
3 really good for California and, you know, the contractors
4 that we've got on board, Bruce and AC (phonetic).

5 So, I will move Item 3 with the resolution.

6 MR. BREHLER: And Item 4.

7 COMMISSIONER MC ALLISTER: So, I think we're
8 voting separately on the two items, so we'll include the
9 resolution on both, I think.

10 MR. BREHLER: Excellent.

11 COMMISSIONER DOUGLAS: Second.

12 CHAIRPERSON WEISENMILLER: Okay, all those in
13 favor?

14 (Ayes)

15 CHAIRPERSON WEISENMILLER: Item 3 passed
16 unanimously.

17 Let's talk about Item 4.

18 COMMISSIONER MC ALLISTER: All right, so I'll
19 move Item 4 with the previously read resolution.

20 COMMISSIONER SCOTT: Second.

21 CHAIRPERSON WEISENMILLER: All those in favor?

22 (Ayes)

23 CHAIRPERSON WEISENMILLER: Item 4 also passed
24 unanimously.

25 Thank you, Martha.

1 MS. BROOK: Thank you very much.

2 CHAIRPERSON WEISENMILLER: Let's go to Item
3 Number 5, which is California Community Colleges
4 Chancellor's Office.

5 And this is an amendment to an existing contract,
6 600-08-009.

7 And this is an additional million dollars, and
8 this is ARFVTP funding. And Dave Nichols.

9 MR. NICHOLS: Good morning Chair, good morning
10 Commissioners.

11 We're here today seeking -- my name is David
12 Nichols and I'm with the Fuels and Transportation
13 Department, with the Emerging Fuels and Technology Office.

14 We are here seeking today the approval for
15 Amendment 2 to Contract 600-08-009 with the California
16 Community Chancellor's Office to augment the agreement with
17 an additional \$1 million to revise the scope of work to
18 extend the interim date.

19 This amendment will allow the Chancellor's Office
20 to continue to develop and provide community college
21 workforce training in alternative fuels and alternative
22 fuel vehicle technology areas under our AB 118 program.

23 As background, the Commission entered into an
24 interagency agreement with the community colleges to
25 provide workforce development in alternative fuels and

1 vehicle technologies.

2 The Chancellor's Office is a vital link to
3 training in alternative fuels and vehicle technology
4 workforce delivery throughout multiple regions in
5 California.

6 To inform the program and workforce development
7 needs, the Chancellor's Office has performed multiple
8 surveys through their Advanced Transportation Technology,
9 and Energy Group, and through the Centers of Excellence
10 that have helped to establish a baseline of information for
11 current and future workforce needs.

12 The current deliverables are divided into two
13 parallel initiatives through the ATT assessments derived
14 from surveys of current community colleges' alt fuel and
15 vehicle program needs the performance and recommendations
16 were made based off their expertise.

17 Through COE, scans for labor market information
18 and research to provide occupational and industry
19 information to help identify training needs by regions were
20 performed.

21 Through the work of ATT and in conjunction with
22 the solicitation for EDD, community college sub-grantees
23 \$2.6 million was recommended and approved for funding by
24 the Commission.

25 These awards are used to enhance curricula

1 development, new curricula, support existing programs, the
2 purchase of specialized equipment and to enhance advanced
3 training for trainers.

4 Currently, we have funded the community colleges
5 at Long Beach, American River, Solano, Cerritos, San
6 Joaquin, Rio Hondo and Imperial Valley.

7 Through COE, scans and surveys of regional job
8 markets for alt fuel vehicles technologies were performed
9 across multiple regions in California.

10 COE delivered a key advanced transportation
11 industries and occupations in California report that
12 informed the program of the status of current jobs in this
13 market.

14 This report, as well as subsequent reports,
15 includes cluster analysis, emerging job trends, and
16 opportunities for the community colleges to advance
17 training in the alternative and vehicle fuel technology
18 categories.

19 The \$1 million that staff is recommending you
20 approve today will be used to enhance current programs and
21 will add additional funding for the regions of San Diego,
22 San Francisco, Imperial Valley and Los Angeles.

23 Staff recommends that the Commissioners adopt and
24 vote for the approval of this amendment.

25 I have with me today, to my left, Cris

1 McCullough, from the Chancellor's Office. Ms. McCullough
2 is currently the Dean of Policy Alignment and Outreach for
3 Workforce and Economic Development.

4 She is a strong advocate in the alternative fuels
5 world and in workforce training.

6 I have relied upon her from the time she was at
7 American River College and I first came on, and I'm looking
8 forward to the work we do in the future.

9 Dean McCullough.

10 DEAN MC CULLOUGH: Thank you, David. And
11 Commissioners, thank you for consideration of this
12 amendment and also for the previous funding that you've
13 given to the community colleges.

14 As you're probably aware, there are community
15 colleges throughout the State of California, 112 of them.
16 And most of them have automotive programs. Many of them
17 have aviation, motorcycle and other programs that are
18 transportation related.

19 And many of the people that work in our economy
20 were trained at a community college in the field of
21 transportation.

22 However, historically, those programs have been
23 very traditional and so the funding that's been brought to
24 bear at the community colleges and through the good works
25 of David Nichols, and staff, we find that we have a number

1 of programs that have been transformed.

2 I spoke with an auto mechanic this morning who
3 has taught traditional transmissions, and who is now
4 teaching transaxles to electric vehicles.

5 In the summer he gave a class to a very diverse
6 group of faculty from the community colleges, from high
7 schools, from SMUD, from BAR (phonetic), from the city and
8 county, from dealers, from independent shops.

9 So, the funding that's going out, that is ending
10 up on the shores of the community colleges is very
11 transformational.

12 I don't want you to think that we're not making a
13 parallel investment. That while we have purchased the --
14 over the years, the taxpayers, I use the word "we" loosely,
15 the taxpayers have purchased facilities and equipment for
16 our shops, and have also hired faculty who are excellent
17 trainers.

18 We recognize that the industry has changed, the
19 sector has changed. You talk about a survey that is saying
20 that there are clusters, now, of advanced transportation
21 and fuel throughout the State and we've been able to
22 identify where they are.

23 Our investment is, using the funding that comes
24 to us through grants for workforce, is that we've
25 identified the sectors in the State that have the greatest

1 impact, ten of them. And two of them relate to energy.

2 One of them is advanced transportation and the
3 other is energy.

4 In the advanced transportation we've put
5 resources into the four regions that you've just heard
6 referenced, San Diego, Imperial, the Inland Empire, San
7 Francisco Bay Area, and Los Angeles, Orange to have people
8 working specifically on the ground in partnership with
9 community college faculty, high school faculty and
10 employers to bring in curriculum, in-service training, and
11 raise the standards for advanced transportation to meet
12 that workforce need in those four regions.

13 That's not to say that there isn't a need
14 throughout the State. If you're talking about the North
15 State, we all know that propane is a hugely important
16 investment in the far north where they don't have access.

17 We know that the transit industry, with CNG and
18 LNG, we know that electric delivery vehicles and also
19 hybrid trucks, which change the profile of the cross-state
20 interstate and intrastate transportation of goods and
21 materials are all huge impacts for transportation and
22 fuels.

23 And so, this investment is important to us. We
24 really appreciate the fact that you're working with the
25 community colleges. We believe we have the infrastructure

1 that aligns with you.

2 And the in-service, the purchase of components
3 and equipment, and the curriculum is hugely important to
4 us. So, thank you for this investment.

5 CHAIRPERSON WEISENMILLER: I'd like to thank you
6 for the community college's focus on it.

7 As the scientist/engineer on the Commission, one
8 of the things I'm really concerned about is technical
9 training.

10 And actually, the day I went before the Rules
11 Committee one of the things that -- there was a *Washington*
12 *Post* article that talked about how in Fresno, on the one
13 hand there's very substantial unemployment that came from
14 the collapse of the housing industry.

15 At the same time there was a lot of unfilled
16 jobs, particularly in the healthcare industry.

17 And, obviously, the missing ingredient was
18 training.

19 And, you know, certainly everyone I've talked to
20 in the energy sector, particularly the utilities, have said
21 the community colleges do a marvelous job preparing people
22 for their workforce.

23 Obviously, the Union Apprentice Training also
24 does a marvelous job for other types of training.

25 But, again, it's very important that we give our

1 citizens the skills they need to take advantage of the
2 opportunities in the green technology space. And I think
3 the community colleges have a huge role in doing that.

4 So, again, thank you for your emphasis on that.

5 DEAN MC CULLOUGH: Thank you very much.

6 COMMISSIONER SCOTT: And I would just add, I'd
7 like to echo what the Chair just said. You know, as the
8 public member I also think it's really exciting to be able
9 to train our citizens on how to -- and our students on how
10 to be able to work on these advanced technologies.

11 The other thing, you know, so this is one of the
12 categories that we all fund under the ARFVTP program. It's
13 in our investment plan.

14 And, you know, this is about just taking a step
15 back and, you know, transforming our transportation system
16 so that we can meet our clean air goals, our climate goals,
17 our energy security goals.

18 And, you know, I would just add a highlight to
19 this. I mean it really is, we're preparing our students
20 and the folks that train the students for how to work on
21 the technologies that we're trying to advance and speed the
22 transition to, so it's a nice synergy.

23 COMMISSIONER MC ALLISTER: Also, I guess, and
24 maybe you can highlight this from within the community
25 colleges, my understanding is that there are very rigorous

1 needs assessment for figuring out where to invest these
2 kinds of resources and what workplace -- what workforce
3 needs are actually in the economy.

4 And, you know, clearly I think with alternative
5 fuel vehicles that's one of them.

6 But, you know, we also want these trainees, when
7 they come out, to actually go into a sector that needs that
8 workforce that they're going to be trained and then have a
9 job afterwards.

10 And so, maybe you could talk a little bit about
11 the needs assessment, itself.

12 DEAN MC CULLOUGH: Yeah, that's near and dear to
13 our hearts because in our framework for the Economy and
14 Workforce Development Division, which is doing what matters
15 for jobs in the economy, our sectors are carefully chosen
16 that they align with needs that we know that there's going
17 to be jobs at the end. And alternative transportation is
18 one of those places where we know that there's going to be
19 jobs.

20 But it isn't enough to know that. You have to,
21 one, do the needs assessment to find out where those areas
22 are so you invest carefully.

23 And two, you have to have metrics that at the end
24 you've determined that people in fact have achieved those
25 goals.

1 We have two primary sources. The first one just
2 came out, it's the Wage Tracker, which we can look at every
3 automotive program in the State and we can tell how much
4 people were making when they went into that program, two
5 years before, when they were in the program, and three
6 years after.

7 And what we're seeing is tremendous wage growth
8 if anybody goes into a transportation program. That's also
9 true for all of the other transportation programs.

10 But that's not specific enough. So, what we're
11 doing is in January we're doing something called the Launch
12 Board. And we've aligned with the K-12 system for Cal Pass
13 Plus and our MIS system to be able to follow students from
14 middle school all the way into either a four-year
15 institution or into work, and to see what kind of wages
16 that they've gained if they are in work, and also aligned
17 with external third-party credentials.

18 So, if somebody picks up an ACE certification we
19 can show that in our Launch Board.

20 So, we understand that it's not just enough to
21 know it's there and to prepare the workforce, but we also
22 have to have metrics that tell us that we're hitting that
23 target and the people that we're preparing in those
24 programs are actually going to work, and have the skills to
25 be able to make not just a living wage, but advanced beyond

1 that.

2 COMMISSIONER MC ALLISTER: Thank you very much.

3 Statewide coverage, with all these different campuses is

4 really fantastic, so thank you.

5 DEAN MC CULLOUGH: Thank you.

6 COMMISSIONER SCOTT: And I'd just add thank you

7 for joining us, it's good to have you here.

8 DEAN MC CULLOUGH: Oh, it's a pleasure.

9 COMMISSIONER SCOTT: Are there other questions?

10 Okay, I'll move Item 5.

11 COMMISSIONER MC ALLISTER: I'll second.

12 CHAIRPERSON WEISENMILLER: All those in favor?

13 (Ayes)

14 CHAIRPERSON WEISENMILLER: This item passes

15 unanimously.

16 Thanks, thanks for being here.

17 MR. NICHOLS: Thank you, Commissioners.

18 CHAIRPERSON WEISENMILLER: Let's go on to Item

19 Number 6, which is Delta Diablo Sanitation District,

20 possible approval of Agreement 002-13-ECD, a \$700,000 loan,

21 and this is ECCA funding.

22 Haile, please.

23 MR. BUCANEG: Good morning, Commissioners. My

24 name is Haile Bucaneg and I'm with the Special Projects

25 Office.

1 The Delta Diablo Sanitation District is
2 requesting a \$700,000 loan through the California Energy
3 Commission's ECCA Loan Program to install a fats, oils and
4 grease receiving facility at an existing wastewater
5 treatment plant in the City of Antioch.

6 Fats, oils and grease will be collected from a
7 number of different sources in the District's Contra Costa
8 County service area, including restaurants, rendering
9 plants, or waste collection businesses.

10 The collected fats, oils and grease will be
11 introduced into the wastewater treatment process and will
12 increase the quantity and quality of biogas that is
13 produced during the anaerobic digestion of wastewater.

14 The District will use the biogas produced to run
15 an existing cogeneration system which currently provides
16 electricity and heat for the plant.

17 The increased biogas output will reduce the
18 wastewater treatment plant's natural gas consumption by
19 137,900 therms. This will result in annual energy cost
20 savings of \$54,500 and a 12.8 year payback on the loan
21 amount.

22 At this time I would be happy to answer any
23 questions you have on the project.

24 CHAIRPERSON WEISENMILLER: Thank you.
25 Commissioners, any questions or comments?

1 COMMISSIONER MC ALLISTER: No, I think -- yeah,
2 we're looking at each other here.

3 Thanks for the presentation. You know, ECCA I
4 think is a pretty known quantity at this point. It's got a
5 good track record. I know the staff who evaluate these
6 projects are fantastic, so I don't have any qualms here.

7 So, I'll move Item 7 -- or I'm sorry, move Item
8 6.

9 COMMISSIONER SCOTT: Second.

10 CHAIRPERSON WEISENMILLER: All those in favor?

11 (Ayes)

12 CHAIRPERSON WEISENMILLER: Item 6 passes
13 unanimously.

14 Let's go on to Item Number 7, which is
15 Victorville 2 Hybrid Power Plant Project.

16 We have consideration of a complaint. And let's
17 start with Rebecca, would you, Westmore, summarize the
18 complaint?

19 MS. WESTMORE: Good morning Commissioners. My
20 name is Rebecca Westmore. I'm an Assistant Chief Counsel
21 with the Chief Counsel's Office.

22 On August 16th, 2013 Robert Landwehr filed a
23 complaint with the Chief Counsel's Office.

24 Mr. Landwehr's complaint addresses two issues.
25 Number one that an ex parte communication was sent to

1 Commissioner Douglas by the City of Victorville's manager,
2 Douglas Robertson and, two, that the ex parte communication
3 was not provided to Mr. Landwehr by the Energy Commission
4 in response to his Public Records Act request.

5 Mr. Landwehr is here today to present his issues
6 to you and has requested that the Commission, one, conduct
7 an honest, thorough and complete investigation.

8 Two, reopen the hearing on the City of
9 Victorville's petition to extend the construction deadline
10 on the Victorville 2 Hybrid Power Plant project.

11 Three, disqualify Commissioner Douglas from the
12 hearing.

13 And four, fully comply with his Public Records
14 Act request.

15 On September 6th, 2013 counsel for the City of
16 Victorville submitted comments to Mr. Landwehr's
17 complaints, which you should have in front of you, and
18 copies of which are on the table in the back of the room.

19 We suggest that you hear from Commissioner
20 Douglas, Jared Babula, who was responsible for responding
21 to PRA requests for the Commission, Mr. Landwehr and any
22 other stakeholders.

23 After hearing the evidence and pursuant to
24 California Code of Regulations Title 20, Section 1232,
25 within 30 days of receipt of the complaint the complaint

1 must either be dismissed for insufficiency or lack of
2 merit, or served upon the respondents.

3 Thank you, Commissioners. If you have any
4 questions, I'm happy to answer those.

5 COMMISSIONER DOUGLAS: So, Mr. Chair and
6 Commissioners, I am obviously going to recuse myself from
7 this item because it pertains to me, in part.

8 I wanted to say a few words before I step out of
9 the room.

10 First of all, I asked the Chair to notice this
11 complaint for a Business Meeting as quickly as possible,
12 really, because I think that a public discussion of the
13 issues raised is important given the issues that are
14 raised.

15 I wanted to share a few thoughts with you and
16 then I will leave the room.

17 CHAIRPERSON WEISENMILLER: Sure.

18 COMMISSIONER DOUGLAS: So, the first thing is
19 that I was actually not aware of the PRA. I was not made
20 aware of the PRA by the legal office. And I think Jared
21 Babula, when he speaks to that, can speak to who he
22 requested search their e-mail and the records for records.
23 But I did not get that request.

24 Secondly, pertaining to the e-mail that I clearly
25 did receive, because I saw a copy in the complaint, I was

1 not aware of the e-mail.

2 And I wanted to say a few things about how my
3 office handles mail and e-mail pertaining to siting matters
4 and, really, other matters.

5 When I get mail on any matter, the mail is opened
6 by my executive assistant. And there have been times when
7 I've gotten mail pertaining to a siting case and if we see
8 that I'm the only recipient or it's pretty clear that it's
9 something that's not part of the record, we go ahead and we
10 docket those items. And sometimes I see them and
11 sometimes, really, I don't, they just go to dockets.

12 When my office receives -- when I receive e-mail,
13 it's really different because my e-mail address is on the
14 web and anyone in the world can pull my e-mail address down
15 and send me an e-mail, and often do.

16 And as a result, I get a lot of e-mail. I think
17 that I'm probably not the only person in this room who
18 doesn't read all of my e-mail.

19 And in fact, I've got to say that despite my best
20 efforts I read probably less than half of the e-mail that I
21 get.

22 And in particular, I don't read e-mail on the
23 siting matters in particular because we actually have a
24 record created, a docket, and that's the most convenient
25 and the most logical place to get information.

1 When I am considering a siting matter, I will
2 set up a meeting with the hearing officer, or with key
3 people in my office and we'll pull the information we need
4 off of dockets, and that's what we'll do.

5 So, I think a rather large percentage of the e-
6 mail that actually does come in my inbox pertains to siting
7 cases, or has some reference to a siting case and is part
8 of our -- currently part of our e-filing, or related
9 systems. And when those come in, I tend to assume that
10 they are not for me, and not read them because I do my
11 siting work on my own time and not when people happen to
12 hit the send button on their e-mails in their filing.

13 So, those are my comments. I obviously think
14 that we need to take complaints like this seriously. I'm
15 glad this is at a Business Meeting.

16 And with that, I am now going to step out of the
17 room.

18 (Commissioner Douglas leaves the room)

19 CHAIRPERSON WEISENMILLER: Okay. Yeah, no that's
20 good.

21 I would say one thing again, just for public
22 context, is that to the extent our names are on, available,
23 or e-mail addresses that means that anyone who is looking
24 for opportunities to send us information on anything, any
25 conference, anything else in the world, we get on those

1 lists.

2 And so our spam filters are not particular good
3 and so, again, it's not unusual for us to ignore a certain
4 amount of this stuff.

5 But anyway, with that notion I guess the one
6 question for the staff was that in that e-mail that came
7 through was there any information that was not publicly
8 available? The e-mail that went to Commissioner Douglas,
9 I'm just trying to understand the gravity of the e-mail, or
10 the importance of the e-mail.

11 MR. LEVY: Chairman, for the --

12 CHAIRPERSON WEISENMILLER: For the record it's
13 here, I know, but I'm not looking for it.

14 MR. LEVY: I don't see the relevant project
15 manager in the room. Are they here?

16 I would say the substance of the e-mail, itself,
17 kind of speaks for itself about what the contents are.
18 It's referring to the published staff report. It appears
19 to be, essentially, a thank you note for the work that the
20 staff, not Commissioner Douglas' staff, but Rob's staff,
21 the Executive Director's staff is deciding advocacy in the
22 independent party.

23 So, it's attached to the complaint and the
24 pertinent part leads out, "As your staff attests in their
25 report" which is a reference to the staff report that was

1 just released on the petition for the extension of time.

2 CHAIRPERSON WEISENMILLER: Okay, thank you.

3 I was also now going to ask Michael, would you go
4 through the process for responding to PRAs?

5 MR. LEVY: Yeah, I think Mr. Babula, who's the
6 lead in our office for Public Record Act requests, is
7 available to speak about both the process, generally, and
8 what happened on this case.

9 MR. BABULA: Yeah, thank you. My name is Jared
10 Babula. I'm the Senior Staff Counsel here. I've been the
11 Public Records attorney here for over six years.

12 So, I just want to briefly talk about the process
13 and then specifically what happened in this case.

14 The purpose of the Public Records Act is to
15 provide access to information concerning the conduct of the
16 people's business. And we take that seriously here. We
17 have a comprehensive effort to ensure that we collect all
18 our documents.

19 When a Public Records request comes in, it's
20 directed to me. It comes in through our website. And then
21 at that time I would assess what the request is. If I have
22 any questions or it's not clear, I will contact the
23 requester so that I ensure I understand what the person's
24 looking for.

25 Oftentimes I know right off the bat kind of what

1 types of materials the person's interested in.

2 Then, the key then is for me to assess who here,
3 out of the 600, over 600 employees potentially has
4 responsive materials.

5 That generally requires some discretion to look
6 at the type of request, what departments, what divisions
7 might have responsive materials.

8 Once I assess my target I will work with staff to
9 obtain responsive documents, collect them and then get them
10 to the requester. So, that's kind of the general process.

11 Now, in this case, this was Mr. Landwehr's second
12 request. He had previously requested some documents
13 showing payments made from Victorville for compliance,
14 compliance fees.

15 So, since I'd previously worked on a prior
16 request, I already knew who the compliance project manager
17 was. And because I'm a siting attorney, familiar with the
18 process of siting, the compliance project manager is really
19 the point person for all communications when it's revolving
20 around a staff type document and a staff process.

21 So, I targeted the compliance project manager,
22 asked her if she had any responsive materials. She
23 inferred she did and that she had a number of
24 communications that were responsive, and that she would
25 happily provide those to me.

1 I did ask her if she thought any other staff
2 person might have responsive documents. She indicated that
3 she would have -- she would be the main person to contact
4 and didn't think anyone else had any.

5 Now, I also did do a couple of other things to
6 ensure a comprehensive review. I checked with the staff
7 counsel for the Compliance Division because oftentimes
8 attorneys may have some communications with some outside
9 parties. He indicated he did not have any communications.

10 And then on top of that, as Commissioner Douglas
11 just referred to, the docket log. The docket log is an
12 essential component of our siting process. That's where
13 all documents generally flow to or especially documents
14 essential for what's like being used to develop the
15 assessment and so forth.

16 So, I checked to the docket log to confirm
17 whether there were any documents that had come in through
18 that.

19 And finally, I also checked on the project pages
20 website. Documents are posted there, frequently.

21 So, in conjunction with working with the
22 compliance project manager, receiving her documents,
23 looking at the docket log, looking at the project webpage I
24 felt that because I did in fact receive over 27 documents
25 from that search that that was a comprehensive, robust

1 search that would have included all the documents.

2 Obviously, one was missed, an unsolicited e-mail
3 that wasn't even reviewed.

4 But the Public Records Act is not a hundred
5 percent. I mean our process isn't a hundred percent, but
6 we try to really strive to balance the level of
7 investigation with interfering with the functionality of
8 the agency.

9 I know there's a lot of people who, from the
10 public's perspective, believe that agencies feel public
11 records are a nuisance and they do the minimum. That's not
12 the case here.

13 I've been doing this for six years and I've had
14 excellent cooperation from staff. I think in general, as a
15 culture, the Commission feels that Public Records requests
16 and transparency is an essential mission of this agency,
17 and that I feel confident that our process is robust and
18 that we do capture the documents.

19 One final note is that the Public Records Act
20 isn't a one-time shot. The requester is always free to
21 receive the documents. If they get documents from other
22 sources that provide additional information, they can
23 certainly come back and say, look, I have this other
24 document you didn't produce, can you check again.

25 And, in fact, that's what happened in this case.

1 Mr. Landwehr did, after he provided the compliant, did ask
2 for us to follow up and we did make a second effort where
3 we checked with the Commissioners' offices. I checked with
4 the Public Adviser's office and the executive offices to
5 ensure that there were no further documents and nothing has
6 come up since then.

7 So, in closing, although this document was
8 missed, I think overall the process is still comprehensive.
9 I provided over 27 documents to him and, in fact, he was
10 able to receive this document by using the Public Records
11 Act towards the city.

12 And so, comprehensively he did receive all the
13 materials.

14 I'm available to answer any questions, thank you.

15 CHAIRPERSON WEISENMILLER: Thank you.

16 Mr. Landwehr, do you want to -- again, we're
17 addressing the two issues, the disqualification and the
18 Public Records Act request.

19 Do you want to comment on what you've heard from
20 Commissioner Douglas and now Jared?

21 MR. LANDWEHR: Thank you, I do. There's other
22 documents that still were not released by the Commission
23 and I'm concerned because I'm being told that there was
24 only one and that's not correct.

25 Is the Commission aware that none of the property

1 owners were ever noticed about this development for
2 Victorville 2?

3 CHAIRPERSON WEISENMILLER: Okay, but again we're
4 just dealing with two issues right now. We'll get the
5 notice question later, but the two issues of
6 disqualification and the Public Records Act request.

7 MR. LANDWEHR: It goes to maybe the integrity of
8 the City of Victorville even sending this document to the
9 Commission is my point.

10 The City of Victorville has never noticed us as a
11 family, as property owners, and other property owners about
12 this development.

13 I'll address it further. The City of
14 Victorville, the attorney, has referred to this as a thank
15 you note. And I have a different perspective on it.

16 And I look at it as a wedding announcement. And
17 this is why; the wedding's taking place on June 12th of
18 2013 and none of the neighbors are invited. That's the
19 property owners.

20 Now, the same thing happened at the engagement
21 announcement five years ago. We were never notified about
22 this process concerning our property.

23 It's amazing to me that in the United States that
24 a State Commission can develop someone's property without
25 giving them notice.

1 Specifically, I'd like to read this. There are
2 statements of material fact that aren't true in this
3 document, this notice.

4 "I was thrilled to receive notification from your
5 staff regarding the petition to extend the deadline for
6 Victorville 2 Hybrid Power Plant. This notification was
7 the final staff report supporting the City of Victorville
8 request for an additional five years to commence
9 construction. I would like to commend your staff in their
10 assistance in helping navigate our process, which we were
11 unfamiliar. The City recently decided to proceed with the
12 request after much internal deliberation. This decision
13 was made only after consultation with your staff that was
14 so competent and inspiring we believe this could be done
15 using city staff, rather than consultants."

16 This is an agreement. The Commissioner is being
17 told, hey we've got this agreement with your staff and
18 we're going to have this thing go through.

19 As your staff attests in their report, the City
20 has shown diligence --

21 CHAIRPERSON WEISENMILLER: Actually, we have it
22 in front of us, so if you want to point to specific areas
23 that's fine.

24 MR. LANDWEHR: I will. Diligence? Property
25 owners have never received notice about this process at the

1 California Energy Commission. That is not diligence.

2 They abandoned the taking of our property. They
3 sued us. After two and a half years, six weeks away from
4 trial and they abandon it. That's not diligence.

5 Factors outside our control -- factors outside
6 our control, they keep repeating that and they blame it on
7 the recession.

8 Right after they received their license from you
9 all in 2008, they were sued by CMP Export. And this is an
10 easy search, just type in "Victorville 2 Power Plant."

11 And CMP Export was working with the City of
12 Victorville to develop an EV-5 program to finance this
13 power plant.

14 I don't know if you all know what an EV-5
15 program, but basically it is visas for \$500,000.

16 Well, the city didn't follow through and they got
17 sued for fraud and breach of contract for trying to finance
18 Victorville 2. They paid \$200,000 to the owner and
19 \$400,000 for legal fees.

20 The City of Victorville then decided we'll just
21 team up with the United States Citizenship and Immigration
22 Services and developed their own EV-5 program. It's been
23 in existence for 20 years, this program through the United
24 States Citizenship and Immigration Services.

25 And for the first time ever they terminated

1 Victorville's program because they didn't follow the
2 rules.

3 2012, the San Bernardino Grand Jury slammed
4 Victorville for its lack of oversight, for management, and
5 lack of transparency, and docked the loss in the
6 neighborhood of \$76 million for Victorville 2 Power Plant.

7 2013, the Securities and Exchange Commission is
8 currently suing the city manager -- excuse me, assistant
9 city manager of the city for fraud.

10 Some of these e-mails that weren't released to
11 me, and I attempted -- I would like to put them in the
12 comment section.

13 CHAIRPERSON WEISENMILLER: Well, certainly --
14 again, you can certainly file material on the record, but
15 we're dealing with sequential issues.

16 MR. LANDWEHR: Yeah, okay.

17 CHAIRPERSON WEISENMILLER: So, again, really
18 trying to get to the question of whether given -- A,
19 whether given Commissioner Douglas' statement she did not
20 review the e-mail, whether you still contended she's
21 disqualified or should disqualify herself.

22 I mean, that's the first threshold question.

23 MR. LANDWEHR: The problem that I have is you all
24 want to accept the fact that the records release was
25 accurate.

1 CHAIRPERSON WEISENMILLER: That's the second
2 question. We'll get to that in a minute.

3 But the first question I'm just trying to ask you
4 is given her statement do you still contend that she should
5 be disqualified -- her statement that she did not read that
6 e-mail?

7 MR. LANDWEHR: Well, I think we're ahead of
8 ourselves about the disqualification, sir. Well, because
9 correct me if I'm wrong, but we're just here to see if
10 there's going to be an investigation into it.

11 CHAIRPERSON WEISENMILLER: And we're trying to
12 understand the merits of the complaint. And I have
13 evidence now that she did not review it.

14 So, I'm trying to understand if you still contend
15 she should be disqualified.

16 MR. LANDWEHR: Well, my point is that there's
17 other documents that the CEC says they abided by in
18 releasing, which I know not to be true.

19 And so I have some reservation about that
20 position. And if --

21 CHAIRPERSON WEISENMILLER: Okay, but that's --
22 the second issue is the reasonableness of our Public
23 Records request search. And I'm certainly happy to hear on
24 that.

25 But again, I'm just trying to walk through the

1 issues and understand where -- you know, trying to address
2 your four points and understand where there are still
3 contentions.

4 MR. LANDWEHR: I believe that this document was
5 sent, and it was wrong to send it. They know it was wrong
6 to send it. And it was received somewhere in the
7 California Energy Commission.

8 I heard Commissioner Douglas said she didn't
9 review it.

10 CHAIRPERSON WEISENMILLER: Right.

11 MR. LANDWEHR: I've heard that. I've also heard
12 that there was a full disclosure of the public records. I
13 believe that not to be true.

14 CHAIRPERSON WEISENMILLER: Okay, so again, I'm
15 happy to dig into that. We also have -- so, on that one if
16 you have additional records, documents you want to put in
17 the record that you think we have, which were not
18 disclosed.

19 MR. LANDWEHR: Well, no, here's what I was hoping
20 to do is -- I had trouble communicating with the Public
21 Adviser regarding getting documents in front of the
22 Commission.

23 And I wanted people to read the relationship
24 between Victorville and the California Energy Commission
25 and how, if you read these e-mails, the lack of oversight,

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1 the lack of review went out the window.

2 And according to --

3 MR. BABULA: Were those e-mails I produced?

4 MR. LANDWEHR: Well, hold on one second.

5 According to Title 20, California Code of Resources, 17125,
6 in case sitings the Energy Commission staff is an
7 independent objective party to the proceeding. And the
8 objectiveness and the independent went away in this process
9 and this is one of those illustrations of that.

10 And these e-mails -- or excuse me, these e-mails
11 that show that the City of Victorville needs to come up
12 with close to \$100,000 for the approval of this process,
13 almost like a quid pro quo.

14 There was no oversight into asking or any vetting
15 into finding out if what Victorville told the staff, in
16 fact the staff accepted a draft revision to review it, and
17 then gave it back to Victorville. There's a lot of
18 communication back and forth, yet there doesn't appear to
19 be any real oversight.

20 I think it was inappropriate for Victorville to
21 send it. I don't know Commissioner Douglas, as you all do.
22 I would hope that she's telling the truth.

23 I know that there's other documents that I've
24 received, that haven't been disclosed by the Commission
25 that paints this process that took place as it was just

1 almost like a rubber stamp. I'm sorry and --

2 CHAIRPERSON WEISENMILLER: Okay, but again I'm
3 just trying to -- I'm trying to understand your issues and
4 deal with them.

5 So, issue number one is the disqualification.
6 And, certainly, I think anyone who has dealt with
7 Commissioner Douglas over the years in her public service
8 would tend to believe her.

9 And so, now the next question -- so that's
10 question number one, disqualification.

11 Question number two is the reasonableness of the
12 Public Records Act. And if you have documents that we
13 should have disclosed, and we didn't, then I'd like to get
14 those on the record.

15 MR. LANDWEHR: Well, no, I think we're out of
16 place here. Correct me if I'm wrong, isn't the appropriate
17 protocol in this hearing is to decide if we're going to
18 investigate. Isn't that what's taking place, if there's
19 going to be an investigation?

20 CHAIRPERSON WEISENMILLER: Go ahead.

21 MR. LEVY: Mr. Landwehr, just to help you here.
22 The first step in the process is to decide whether or not
23 the complaint has merit on its face.

24 And based upon what we've heard already, the
25 Chairman is saying to you that it does not appear that

1 there's a basis, in his opinion, for recusal of
2 Commissioner Douglas based upon her testimony.

3 The second part of your complaint was that we
4 failed to provide records to you in response to a Public
5 Records Act request.

6 And what the Chairman is trying to get from you
7 is a statement of what records there are that would respond
8 to the request that we haven't produced.

9 So, if you could articulate for us what there
10 are.

11 CHAIRPERSON WEISENMILLER: Now, I realize there
12 are additional items, issues you're raising, but I'm just
13 trying to go through the four issues you've raised and
14 understand the merits of each of those issues.

15 MR. LANDWEHR: Okay.

16 MR. LEVY: Your second matter -- Mr. Landwehr,
17 your second matter on the agenda follows this one, which is
18 Item 8, which is your petition for reconsideration, and so
19 we'll take that up in due course.

20 MR. LANDWEHR: Okay.

21 CHAIRPERSON WEISENMILLER: Yeah, so --

22 MR. LANDWEHR: If it's strictly related, and I
23 appreciate you walking me through it. Thank you.

24 And if Commissioner Douglas said she's never
25 received it, she's never reviewed it, then I understand,

1 okay.

2 From my perspective, though, I've dealt with the
3 City of Victorville. I don't trust them. I don't trust
4 their attorney's office. They don't follow the law. They
5 don't follow ordinances and rules. And I think it was
6 inappropriate for them to send that.

7 And I understand if she doesn't know about it,
8 and that's what I'm hearing, then she has no responsibility
9 to disclose it.

10 CHAIRPERSON WEISENMILLER: Right.

11 MR. LANDWEHR: Is that correct?

12 CHAIRPERSON WEISENMILLER: That's correct.

13 MR. LANDWEHR: Okay.

14 CHAIRPERSON WEISENMILLER: I think, actually, the
15 three things I was trying to do, and the City of
16 Victorville and their attorney want to respond. But one,
17 first was just to deal with the issue of Commissioner
18 Douglas.

19 And then second to deal with the issue of the
20 adequacy of our public records request, of our response.

21 And then, third, I'm happy to move on to the
22 merits that you've raised generally on stuff, but at least
23 trying to deal with the things more sequentially.

24 MR. LANDWEHR: Okay.

25 CHAIRPERSON WEISENMILLER: And so --

1 MR. LANDWEHR: Sorry if I got out of line, out
2 of place.

3 CHAIRPERSON WEISENMILLER: No, you're not. But
4 again, if you have information that should have been
5 disclosed, documents that should have been disclosed that
6 we have, then I'd like to get those documents in the
7 record.

8 Or if these are records that Victorville should
9 have supplied, then that's a different question.

10 MR. LANDWEHR: Basically, I did identical records
11 requests.

12 CHAIRPERSON WEISENMILLER: Uh-huh.

13 MR. LANDWEHR: And I received two sets of
14 different documents, a lot more from Victorville than from
15 the California Energy Commission, a lot more.

16 What took place then, Ms. Westmore, I then made a
17 second request to fully comply with this before the hearing
18 and I was told by Ms. Westmore that after 90 days they go
19 away.

20 CHAIRPERSON WEISENMILLER: Right and there is a
21 physical reality of our systems.

22 MR. LANDWEHR: Just they're gone, okay. So, at
23 this point then I guess this issue can rest.

24 CHAIRPERSON WEISENMILLER: Okay, so let's move
25 on. Let me have the City of Victorville -- okay, so let's

1 do two things. Let me notify Commissioner Douglas that
2 she should come back.

3 MR. LEVY: Why don't you actually wait until
4 we've -- let's --

5 CHAIRPERSON WEISENMILLER: Let's let the City of
6 Victorville respond on these specific ones and then deal
7 with those two issues.

8 So, on the line I believe we have representatives
9 of the city attorney and also the project applicant.

10 MR. DE BORTENOWSKI: Yeah, this is Andre
11 DeBortenowski, City Attorney for the City of Victorville.
12 Can you hear me?

13 CHAIRPERSON WEISENMILLER: Yes.

14 MR. DE BORTENOWSKI: Yeah, good. Yeah, our
15 response and, again, we've heard nothing new from Mr.
16 Landwehr. But as you have, as part of your docket, we have
17 responded in writing.

18 Again, we don't believe there is any bias or
19 anything that would preclude Commissioner Douglas from
20 participating in the proceedings.

21 As to the public records request, again we
22 believe that's within your jurisdiction. We believe Mr.
23 Landwehr has had all of the documentation he's asked for,
24 especially any documentation that's relevant to these
25 proceedings.

1 The other extraneous issues that he is raising
2 we don't believe have any relevance to this proceeding, and
3 we've addressed that in our correspondence.

4 I'd be very happy to answer any questions that
5 the Commissioners have.

6 CHAIRPERSON WEISENMILLER: Thank you. Let's -- I
7 think on that part I'm looking -- I think in terms of the
8 motion for disqualification, you know, that basic part of
9 the complaint, I want to see where the other Commissioners
10 are, but at least I'm inclined, comfortable that we don't
11 have an issue here. We don't have to have an
12 investigation.

13 I'd like to come up with a resolution that
14 addresses this issue, realizing we will then go on to Item
15 Number 8, which is the reopening request of yours.

16 So, staff, do you --

17 MR. LANDWEHR: We can propose some findings for
18 you, if you'd like.

19 CHAIRPERSON WEISENMILLER: Would you please do
20 that?

21 MR. LEVY: Do you have something or -- you do,
22 okay.

23 MS. WESTMORE: Based on your discussions, I
24 recommend that you find, number one, that the City of
25 Victorville initiated an ex parte communication with

1 Commissioner Douglas during the pending petition to extend
2 the construction deadline of the Victorville 2 Hybrid Power
3 Plant Project.

4 Number two, that Commissioner Douglas did not
5 read the communication.

6 Number three, that upon receipt of Mr. Landwehr's
7 Public Records Act request Mr. Babula conducted a
8 reasonably diligent search consistent with the Commission's
9 existing business practices, which did not discover the
10 communication.

11 And four, that even if Commissioner Douglas read
12 the communication nothing in the communication would create
13 a reasonable basis to conclude it would prejudice her
14 objectivity as the communication vaguely referenced a
15 published staff document and otherwise only expressed
16 thanks to Commissioner Douglas and to Commission staff.

17 CHAIRPERSON WEISENMILLER: I think --

18 MR. LANDWEHR: And I object to that last part.

19 CHAIRPERSON WEISENMILLER: Okay, let's go back to
20 the first part. I think you said they initiated, and I
21 believe they tried to communicate with her. Just reread
22 the first finding.

23 MS. WESTMORE: That the City of Victorville
24 initiated an ex parte --

25 CHAIRPERSON WEISENMILLER: And I'm saying they

1 tried to initiate --

2 MR. LEVY: How about "attempted" instead of --

3 CHAIRPERSON WEISENMILLER: Or "attempted" is

4 better, yes. Okay.

5 MS. WESTMORE: Read that finding again?

6 CHAIRPERSON WEISENMILLER: Yes.

7 MS. WESTMORE: Number one, that the City of

8 Victorville attempted to initiate an ex parte communication

9 with Commissioner Douglas during the pending petition to

10 extend the construction deadline for the Victorville 2

11 Hybrid Power Plant Project.

12 CHAIRPERSON WEISENMILLER: Okay. Now, would you

13 reread the last finding?

14 MS. WESTMORE: Yes. That even if Commissioner

15 Douglas read the communication, nothing in the

16 communication would create a reasonable basis to conclude

17 it would prejudice her objectivity as the communication

18 vaguely referenced a published staff document and otherwise

19 only expressed thanks to Commissioner Douglas and to

20 Commission staff.

21 MR. LANDWEHR: I disagree with --

22 CHAIRPERSON WEISENMILLER: You have an objection.

23 MR. LANDWEHR: I disagree to that. This document

24 has false statements in it and it reinforces what's in the

25 staff report and what's in the petition.

1 And both -- they're statements of material fact
2 that aren't true in all three documents.

3 CHAIRPERSON WEISENMILLER: Okay. Now, again,
4 I'll ask you to identify the specific --

5 MR. LANDWEHR: The specific ones, "have shown
6 diligence," that's wrong, "factors outside our control"
7 definitely wrong.

8 CHAIRPERSON WEISENMILLER: Okay. City, do you
9 have any response on those two points?

10 MR. LEVY: In particular whether they raise an
11 issue of prejudice.

12 CHAIRPERSON WEISENMILLER: Yes.

13 If you want to respond, you don't have to.

14 MR. DE BORTENOWSKI: Who are you looking for the
15 response from?

16 CHAIRPERSON WEISENMILLER: The City. You've
17 heard the objection and I was at least going to give you a
18 chance to comment on the objection.

19 MR. DE BORTENOWSKI: Again, we see the
20 communication, not that it even went through, as merely a
21 correspondence of thanks for consideration. There's
22 nothing more in the communication, included in the
23 communication that has any impact on these proceedings.

24 CHAIRPERSON WEISENMILLER: Mr. Levy?

25 MR. LEVY: Yeah, I understand Mr. Landwehr's

1 point. I think Mr. Landwehr's concern is that it's
2 emphasizing something that he presumes to be in dispute.
3 But that doesn't necessarily going to mean that the reader
4 is going to take everything in the e-mail to be true, and
5 so that's the question of prejudice.

6 But, you know, the Commission doesn't really need
7 to reach the issue of whether there's prejudice. You could
8 probably just drop the finding because the fact that she
9 didn't read it would obviate any harm from it having been
10 sent and we don't need to reach the issue of prejudice.

11 CHAIRPERSON WEISENMILLER: Okay, so let's drop
12 that finding.

13 So, Commissioners do you want all the findings to
14 be read or are you prepared to act?

15 COMMISSIONER MC ALLISTER: I'm happy with just
16 the one and the two.

17 CHAIRPERSON WEISENMILLER: Okay, so --

18 COMMISSIONER MC ALLISTER: Whatever I might think
19 about the third one --

20 CHAIRPERSON WEISENMILLER: The last part.

21 COMMISSIONER MC ALLISTER: Being on siting cases,
22 you definitely take things with a --

23 CHAIRPERSON WEISENMILLER: The last one.

24 COMMISSIONER MC ALLISTER: So, let's drop it.

25 CHAIRPERSON WEISENMILLER: So that's dropped.

1 So, with that dropped I'm looking for a motion.

2 COMMISSIONER MC ALLISTER: So, this is a motion
3 on a finding.

4 CHAIRPERSON WEISENMILLER: On the resolution.

5 MS. WESTMORE: Would you like me to review the
6 findings?

7 CHAIRPERSON WEISENMILLER: Yes.

8 MS. WESTMORE: Okay. Finding one, that the City
9 of Victorville attempted to initiate an ex parte
10 communication with Commissioner Douglas during the pending
11 petition to extend the construction deadline of Victorville
12 2 Hybrid Power Plant Project.

13 Number two, that Commissioner Douglas did not
14 read the communication.

15 And number three that upon receipt of Mr.
16 Landwehr's Public Record Acts request Mr. Babula conducted
17 a reasonably diligent search, consistent with the
18 Commission's existing business practices, which did not
19 discover the communication.

20 MR. LEVY: Why don't you frame the motion also.

21 MS. WESTMORE: The motion would be that the
22 complaint should be dismissed for lack of merit pursuant to
23 Code of Regulations, Title 20, Section 1232(a)(1).

24 COMMISSIONER MC ALLISTER: So, this is a move the
25 findings -- the resolution with the findings and dismiss

1 the -- right, okay, dismiss the complaint.

2 MR. LEVY: So moved as recited by --

3 COMMISSIONER MC ALLISTER: Okay, great, so moved

4 as recited -- yeah, great.

5 COMMISSIONER SCOTT: Second.

6 CHAIRPERSON WEISENMILLER: Okay, all those in

7 favor?

8 (Ayes)

9 CHAIRPERSON WEISENMILLER: So, this passes

10 unanimously, or passes three to zero in terms of those

11 here, so --

12 MR. LEVY: Chair Weisenmiller, may I ask you to

13 please direct the Secretariat to generate a written order

14 from the transcript of the proceedings.

15 CHAIRPERSON WEISENMILLER: Sure.

16 MR. LEVY: Thank you.

17 CHAIRPERSON WEISENMILLER: Sure.

18 And how, hopefully, we can find Commissioner

19 Douglas before we move on to Item Number 8.

20 (Commissioner Douglas enters the room)

21 CHAIRPERSON WEISENMILLER: Commissioner Douglas

22 welcome back.

23 COMMISSIONER DOUGLAS: Thank you.

24 CHAIRPERSON WEISENMILLER: We appreciate your

25 recusing yourself and allowing us to have a thorough

1 investigation on these issues.

2 Let's go on to Item Number 8.

3 MR. LANDWEHR: Excuse me, could I make a quick
4 comment to the Commissioner?

5 CHAIRPERSON WEISENMILLER: Sure.

6 MR. LANDWEHR: My complaint or what I did was no
7 intent to disparage you or your reputation. I don't know
8 you. And so I'm hoping you didn't take any negative
9 response from this document, as the city attorney applied
10 that it was.

11 COMMISSIONER DOUGLAS: I understand that. I
12 appreciate you saying that. You had an e-mail in front of
13 you and it caused you a concern and a worry, and you filed
14 a complaint, and I don't hold that against you in any way.

15 MR. LANDWEHR: Thank you.

16 COMMISSIONER DOUGLAS: Thank you.

17 CHAIRPERSON WEISENMILLER: Yeah, I'm afraid all
18 of us have to have somewhat thick skins. You know, once
19 you step back into -- or once you step into public service.

20 Although, you know, we always try to do our best
21 I guess is the bottom line, and hope people understand that
22 part.

23 But again, we understand these are complicated
24 issues in various forums and how it would be easy for a
25 member of the public to be concerned.

1 So, we're glad you raised the issue so we could
2 walk through that.

3 But now, let's go on to Item Number 8, which is
4 consideration of a petition for reconsideration.

5 And so at this stage, Rebecca.

6 MR. LANDWEHR: It I may just, quickly, basically
7 it's a Brown Act complaint. I'm saying that -- I'll just
8 be as brief as I can because I know you're all busy.

9 But I'm saying Victorville violated the Brown
10 Act. They say they didn't. So, what I did was I turned
11 over the information to the San Bernardino County District
12 Attorney and they're currently conducting a criminal
13 investigation into this issue.

14 And so I would suggest that we postpone this
15 until the District Attorney rules on the matter.

16 MS. WESTMORE: Commissioners, maybe I can frame
17 the issue first for you in terms of the petition and then
18 we can take up Mr. Landwehr's question.

19 MR. LANDWEHR: Sure.

20 MS. WESTMORE: Thank you. On July 11th, Mr.
21 Landwehr filed a petition for reconsideration with the
22 Chief Counsel's Office.

23 Mr. Landwehr's petition requests that this
24 Commission reconsider its June 12th, 2013 decision to
25 extend the construction deadline for the Victorville Hybrid

1 Power Plant Project based on three grounds.

2 Number one, that he did not receive notice of the
3 June 12th, 2013 Business Meeting.

4 The compliance project manager has confirmed that
5 Mr. Landwehr was not notified of the Business Meeting and
6 this hearing has been scheduled to allow Mr. Landwehr to
7 address the issues he would have raised at that June 12th,
8 2013 Business Meeting.

9 Number two, according to Mr. Landwehr's petition,
10 he was not properly noticed for a hearing held by the
11 Victorville City Council and the Southern California
12 Logistics Airport Authority Board on July 15th, 2008,
13 wherein the City Council adopted a resolution to exercise
14 eminent domain over Mr. Landwehr's property.

15 This issue, however, is within the jurisdiction
16 of the City of Victorville and not the Energy Commission.

17 Number three, Mr. Landwehr has raised a
18 compliance issue relating to the Energy Commission. In
19 2006 and 2008 the project owner conducted a Desert Tortoise
20 survey on his property without his knowledge or permission.

21 Then in October 2008 the project owner installed
22 black silk screening on his property in violation of the
23 Desert Tortoise Translocation Plan.

24 Mr. Landwehr has indicated, however, that the
25 silk screening was removed and sandbags were left behind.

1 The project manager has also confirmed that Mr.
2 Landwehr did not report this complaint to the Energy
3 Commission.

4 Issues regarding compliance of the project
5 license may have fallen within the jurisdiction of the
6 Energy Commission had those concerns been reported to the
7 Energy Commission's Compliance Unit in 2008.

8 At this time, however, those matters have been
9 resolved and they are no longer at issue.

10 Pursuant to Code of Regulations, Title 20,
11 Section 1720, a petition for reconsideration must set
12 forth, one, new evidence or, two, an error in fact or
13 change or error of law.

14 The Chief Council's Office has looked at the
15 documents accompanying Mr. Landwehr's petition and believe
16 that the petition does not present new evidence or raise an
17 error in fact, or a change or error in law that would have
18 an effect upon a substantive element of your decision to
19 extend the construction deadline for the Victorville 2
20 Hybrid Power Plant Project.

21 We therefore recommend that you deny Mr.
22 Landwehr's petition and a proposed order is included in
23 your agenda backup materials. Thank you.

24 CHAIRPERSON WEISENMILLER: I had asked for this
25 draft order to be posted so you could respond back to it on

1 the specific issues.

2 MR. LANDWEHR: Well, I'm a little confused in
3 that --

4 CHAIRPERSON WEISENMILLER: Again, it's a draft.
5 It's not been accepted by the Commission.

6 MR. LANDWEHR: Yeah. And I didn't give it any
7 piece of -- or I didn't -- I read it, but my issue is a
8 criminal investigation regarding a Brown Act, which is at
9 issue here, takes precedent over this issue in front of the
10 Commission.

11 In other words, if the District Attorney says,
12 again, Victorville, you violated the Brown Act again
13 regarding Victorville 2, I think that's important for me to
14 have in hand to support this issue.

15 And again, if I had the opportunity to appear at
16 the June 12th hearing, which I was never -- I never
17 received notice of, I could have made that argument, as
18 these other arguments.

19 But I've been blackballed, in my opinion, from
20 appearing at these.

21 CHAIRPERSON WEISENMILLER: No. Well, certainly,
22 today is your chance -- obviously, this is probably over-
23 dignifying this, saying this is court.

24 You know, but today we're certainly -- we want to
25 listen to your arguments today. And I think the question

1 becomes --

2 MR. LANDWEHR: Well, I think -- I disagree with
3 your --

4 CHAIRPERSON WEISENMILLER: So this is your -- no,
5 go ahead.

6 MR. LANDWEHR: I disagree with your assessment of
7 this. You all have this in front of you, my complaint?

8 CHAIRPERSON WEISENMILLER: Yes, yes, we have your
9 complaint.

10 MR. LANDWEHR: The second one?

11 CHAIRPERSON WEISENMILLER: Yes.

12 MR. LEVY: The petition for reconsideration, not
13 a complaint.

14 CHAIRPERSON WEISENMILLER: We have the complaint
15 and the petition, but we've had the petition.

16 MS. WESTMORE: Yes.

17 CHAIRPERSON WEISENMILLER: Yeah.

18 MR. LANDWEHR: Do you have this one here?

19 CHAIRPERSON WEISENMILLER: We have it, yes.

20 MR. LANDWEHR: And you've all read it?

21 CHAIRPERSON WEISENMILLER: Yes.

22 MR. LANDWEHR: Okay. Do you not think it's a
23 Brown Act issue that I'm raising?

24 CHAIRPERSON WEISENMILLER: Well, the issue of
25 whether or not there's a Brown Act violation, as you've

1 indicated, you're taking up with the appropriate venue,
2 the appropriate courts.

3 And it's not our position to decide that or, even
4 if we did, it would sort of be irrelevant --

5 MR. LANDWEHR: I agree. I agree.

6 CHAIRPERSON WEISENMILLER: -- in some respects.
7 So, the question becomes how does that affect our decision
8 on the reconsideration.

9 And again, we're here today to listen to your
10 arguments on that and -- you know.

11 MR. LANDWEHR: My point is simply this, if the
12 District Attorney investigates the Brown Act complaint
13 which I've alleged, and they say, Victorville, you violated
14 the Brown Act, Landwehr and other people weren't given
15 notice about the development of Victorville 2 and how much
16 more money you're going to spend, and made a statement that
17 they violated it again, doesn't that tell you all that in
18 Victorville they're not listening to the landowners.

19 The District Attorney is condemning them, again,
20 for not allowing landowners to speak regarding the
21 development of Victorville 2.

22 COMMISSIONER MC ALLISTER: Can siting staff or --
23 can legal or siting staff --

24 CHAIRPERSON WEISENMILLER: Yeah, go ahead.

25 COMMISSIONER MC ALLISTER: Yeah.

1 MR. LEVY: Commissioners, perhaps I can frame
2 some of the legal issues that are going on here.

3 The first one is the Commission has a role in
4 licensing and it's a limited role relative to how the city
5 or any applicant pursues their processes.

6 The applicants come to the Commission and they
7 submit an application for certification, or in this case, a
8 petition to amend the certification to allow them an
9 extension of time to construct their power plant.

10 You have set timelines, the Commission does,
11 within which you are to do your job.

12 And then after the Commission makes a decision
13 there's a limited timeframe within which people can bring
14 to the Commission's attention things that the Commission
15 should have known, but didn't know, due to no fault of the
16 petitioner or, if there's a change in law or fact that's
17 relevant to the proceeding.

18 So, the grounds for consideration reconsideration
19 are really quite narrow.

20 The point here and the point of the draft or the
21 proposed order is to ask Mr. Landwehr to explain what it is
22 that had he received notice, and I believe the proposed
23 order concedes that it appears he didn't receive notice, a
24 side issue. As you all know, and most of the stakeholders
25 know, our list serves are self-effectuating. People sign

1 themselves up for list serves.

2 I can let staff speak to what happened in this
3 case, if they choose to do so, but apparently somebody
4 represented to Mr. Landwehr that they would put him on a
5 list serve and that didn't happen. And that's a bad thing
6 and that's a process issue that needs to be addressed
7 internally.

8 But, nevertheless, had he been there at the time
9 of the hearing, and had he had notice what is it that he
10 would have said at the time that would have beared upon
11 your decision about whether to grant or deny
12 reconsideration?

13 And the proposed order says it doesn't look from
14 the petition that even if he was there, that anything that
15 he's alleging would have weighed in, in any relevant way,
16 on your decision about whether to grant the five-year
17 extension.

18 Now, that said, if something comes up later as a
19 result of the District Attorney's investigation, the
20 Commission can modify or revoke the certificate at that
21 time under Public Resources Code 25531, if there were
22 mistakes, false statements presented to the Commission, or
23 other bases to do so, but that would be a separate
24 proceeding.

25 In this proceeding, now, it's incumbent on Mr.

1 Landwehr to explain what it is that he would have
2 testified to, essentially make an offer of proof about what
3 he would have told you and for you to decide now whether or
4 not, within the confines of the regulation for a petition
5 for reconsideration, that presents new or different
6 information that would have caused you or could have caused
7 you to reach a different conclusion on granting the
8 extension.

9 COMMISSIONER MC ALLISTER: Is a pending lawsuit
10 anything along those lines?

11 MR. LEVY: Not a pending lawsuit, nor a pending
12 criminal investigation.

13 The purpose of the power plant licensing process
14 is to have an expedited process to go forward.

15 And I might also add there's a limited time to
16 review these petitions, too.

17 At Mr. Landwehr's request, when he filed the
18 complaint that you just adjudicated on the ex parte issue
19 and the Public Records Act issue, he asked you to delay
20 consideration of the petition for -- his petition for
21 reconsideration, which you did.

22 You are supposed to conclude an investigation on
23 reconsideration within 90 days of filing. That would be
24 October 11th.

25 Plus, the possibility of a need for evidentiary

1 hearings if he presents something now that gives you cause
2 to do that.

3 So, delaying again would put you really up
4 against the deadline in being able to respond to it. And
5 who knows what the District Attorney's Office is looking at
6 or when they're going to form whatever conclusions they
7 form.

8 And as I said, there's recourse to address those
9 issues, if they become relevant, after the DA actually acts
10 under Public Resources Code 25531 -- or excuse me, 25531,
11 pardon me.

12 MR. LANDWEHR: Here's what I'm hearing is I'm one
13 property owner. Actually, this property is shared by my
14 brothers and sister. Why don't they have the opportunity
15 to come to a June 12th hearing and speak? Why do I have to
16 now try to explain to you all what they may have said or
17 are willing to say about this?

18 What about the other property owners of this
19 development that have never received notice and been given
20 the opportunity to speak? What about them?

21 MS. MATHEWS: Can I be heard? This is Alana
22 Mathews, Public Adviser.

23 I would request if we can perhaps table this
24 matter, pass it. I would like to explain the procedure for
25 what a petition to reconsider entails to Mr. Landwehr

1 because I think that we're reframing the issue, perhaps,
2 for the Commission. The Commission has an understanding.

3 I don't think he understands so I'd like to take
4 a few minutes to explain that, clearly, what the issues
5 are, what information the Commission is looking for, and
6 then we can resolve this issue.

7 MR. LANDWEHR: Well, I heard you say -- is it Mr.
8 Levy?

9 MR. LEVY: It is.

10 MR. LANDWEHR: I apologize.

11 MR. LEVY: That's quite all right.

12 MR. LANDWEHR: But the notice issue is a
13 problematic issue. Is that correct?

14 MR. LEVY: Lack of notice to folks who are
15 entitled to notice is always a problematic issue, yes.

16 MR. LANDWEHR: Okay. How then am I supposed to
17 be able to share with the Commission what everybody's
18 opinion about Victorville 2 is, including my own family
19 members, who have the right to come here and say.

20 What about the other property owners? Am I
21 supposed to in my head, now, be able to tell this
22 Commission and you all what their concerns were about
23 Victorville 2?

24 MR. LEVY: Chairman, it might behoove the
25 Commission to accept the Public Adviser's recommendation.

1 But in short, when I use the words "offer of
2 proof," right now it's your job to explain to them what
3 might have been said that would have changed their mind
4 back then, and then they would decide whether to have a
5 hearing on reconsideration.

6 MR. LANDWEHR: Here's what --

7 MS. MATHEWS: I would ask the Chair to make a
8 decision on my request.

9 CHAIRPERSON WEISENMILLER: Let's do a recess.
10 This is probably an appropriate time for lunch. I believe
11 we have an Executive Session at lunch?

12 MR. LEVY: Yes, I would like to request an
13 Executive Session.

14 CHAIRPERSON WEISENMILLER: And so let's try to be
15 back here by -- I was going to say 1:15.

16 MR. LEVY: If I may, Chairman, the grounds for
17 the Executive Session are to discuss whether facts and
18 circumstances warrant the initiation of litigation.

19 CHAIRPERSON WEISENMILLER: Yes. So, I'm just
20 looking at you and trying to figure out whether it's a 1:15
21 or a 1:00 restart.

22 Let's say 1:15 and, hopefully, you two can talk
23 during that period of time and can help him -- anyway,
24 clarify what the issues are or what our process is. Thank
25 you very much.

1 (Off the record for the lunch recess, during
2 which an Executive Session was held.)

3 (Reconvene in Open Session at 1:18 p.m.)

4 CHAIRPERSON WEISENMILLER: Good afternoon, we're
5 back in session.

6 I was going to ask our Public Adviser for a
7 report since we took a recess.

8 MS. MATHEWS: Yes, I have had an opportunity to
9 speak with Mr. Landwehr and I explained to him, again, the
10 procedure today, and the opportunity that he has during the
11 petition to reconsider is to present to the Commission any
12 new information that wasn't presented at June 12th, or
13 either any change of law, or change or error in fact. As
14 well as, or under the umbrella of any information he would
15 have presented had he been noticed and had the opportunity
16 to come on June 12th.

17 He did indicate that he understood that and he is
18 prepared to share that information now.

19 CHAIRPERSON WEISENMILLER: Oh, great, thank you.
20 Please.

21 MR. LANDWEHR: Thank you. The information that
22 was not heard at the hearing were statements of material
23 fact that aren't true, factors outside the product owner's
24 control that have prevented the start of construction is
25 not true.

1 It's not a build-ready site, as they said.

2 I also wanted to bring up the San Bernardino
3 Grand Jury final report of 2012, the lawsuit involving
4 Victorville and CMB Imports, the EB-5 Program failure, the
5 fact that other property owners never received notice and
6 had the opportunity to be there.

7 And the project is not viable because of the
8 contract with Inland Energy due to their 5 percent
9 operating profit clause.

10 And I believe that the California Energy
11 Commission did not do an objective review of their
12 petition.

13 CHAIRPERSON WEISENMILLER: Okay, thank you.

14 Let's start with our Chief Counsel, again. Just
15 in terms of would you review for us precisely the issues
16 that were at stake in this case, and which of these might
17 materially affect the findings we need to make on this
18 extension.

19 MR. LEVY: I think you're going to need a little
20 bit more information from Mr. Landwehr. But the question
21 is why would each of those or any of those have made a
22 difference in terms of your decision about whether or not
23 to grant the 5-year extension.

24 CHAIRPERSON WEISENMILLER: Right.

25 MR. LEVY: So, you might ask Mr. Landwehr to

1 clarify what it was that each of these items had
2 associated with it that would have caused you to reach a
3 different conclusion, or may have caused you to look at the
4 issues differently.

5 CHAIRPERSON WEISENMILLER: Okay. Please.

6 MR. LANDWEHR: My response is that the City of
7 Victorville was not truthful in its application or the
8 petition, and they were concluded by staff to be truthful
9 in and of themselves.

10 It shows a pattern, all these lawsuits, and
11 referring to the United States Immigration -- Customs and
12 Immigration, a termination of the EV-5 Program, the
13 Securities and Exchange Commission. They're finding fault
14 with the City of Victorville in trying to finance
15 Victorville 2.

16 It's a pattern of consistent behavior of the City
17 of Victorville not following the rules.

18 And if they're not following the rules regarding
19 financing of Victorville 2, what makes you believe,
20 Commission that they're going to now.

21 COMMISSIONER DOUGLAS: If I could, let me just
22 ask a few follow-up questions because I think it could be
23 helpful.

24 Mr. Landwehr, you cited when you came in here, a
25 list of issues that you were pointing -- asking us to

1 consider. And so one of the issues you cited was related
2 to factors outside of a project owner's control and that
3 those factors were not there. Did I hear you correctly?

4 MR. LANDWEHR: I believe they're not true.

5 COMMISSIONER DOUGLAS: And can you give us a
6 little more detail on what factors were asserted that you
7 think are not true?

8 MR. LANDWEHR: Well, clearly, if you engage in
9 fraud, I think that's within your control. The Securities
10 and Exchange Commission is accusing Victorville of
11 conducting -- or being engaged in fraud with the financing
12 of Victorville 2.

13 COMMISSIONER DOUGLAS: Okay. Now, normally, when
14 we think about factors beyond a project owner's control --
15 when a project owner comes in here for an extension what
16 they're basically saying is, you know, Energy Commission,
17 you gave us five years. We weren't really able to build
18 the project in five years, but if you were to give us more
19 time we think we could. And we have been doing our work,
20 and our due diligence in putting the project together, we
21 haven't just been sitting on this.

22 And things happened outside of our control, you
23 know, that made it more challenging than we thought to get
24 this project together quickly.

25 And so I am -- I hear the concerns that you're

1 expressing about issues that might have occurred or you're
2 alleging occurred with the City of Victorville.

3 That type of thing is not generally what I would
4 look at or what I would think about when I'm thinking about
5 the question of has this applicant shown -- kind of met the
6 burden for an extension.

7 So, that's the connection that is very clear to
8 you, that I'm asking you to help us draw.

9 MR. LANDWEHR: I think everybody that owns
10 property has the right to appear and be heard. And our
11 family wasn't the only one, there's several property
12 owners, quite a few, that have been excluded from notice.

13 And my personal opinion, based upon e-mails, is
14 it wasn't an accident. And I think people have the right
15 to be heard when it concerns the development of their
16 property.

17 COMMISSIONER DOUGLAS: I think that every one of
18 us agrees with you on that point and we agree with you
19 strongly.

20 Let me ask you a question because we have two
21 issues. We have the issues that you've alleged regarding
22 notice or lack thereof by the City of Victorville to your
23 family and potentially others.

24 And then, very unfortunately and to our
25 embarrassment, you also didn't get notice of the Business

1 Meeting where we had the extension.

2 And so I think that both of those -- I don't want
3 to conflate those. And sometimes when you speak I wonder
4 which one you're referring to.

5 So, when you just gave that answer, are you
6 saying that the -- were you talking about you and neighbors
7 not getting notice by the City of Victorville?

8 MR. LANDWEHR: When I say neighbors, I'm
9 referring to other property owners.

10 COMMISSIONER DOUGLAS: Yes, correct.

11 MR. LANDWEHR: I know other property owners did
12 not receive notice and, in fact, the project compliance
13 manager knows that, Blake Roberts knows that, and Alana
14 Mathews knows that.

15 And I don't -- I think if people have notice that
16 there's going to be a hearing concerning the development of
17 their property, they should have the right to appear, or at
18 least have that opportunity and say things for or against
19 it. And I don't -- I can't speak to what they would say.

20 COMMISSIONER DOUGLAS: Right. And so you are
21 talking about the notice of the Energy Commission
22 proceeding at this point, right, when you talk about Blake
23 Roberts and the compliance manager. You're talking about
24 the notice for the extension?

25 MR. LANDWEHR: Correct.

1 COMMISSIONER DOUGLAS: Okay.

2 MR. LANDWEHR: Well, I don't know where you're
3 going with that. Maybe I missed it, I apologize. But we
4 never received any notice, our family, from the California
5 Energy Commission, never. And Mary Diaz (phonetic) knows
6 that and she's acknowledged that.

7 COMMISSIONER DOUGLAS: And what I understand
8 happened, and it could be helpful to hear it from you, but
9 what I understand happened is that you send an e-mail in to
10 Mary Diaz asking if you were on the list serve and she sent
11 a response saying, well, I'm looking here, I don't see your
12 name.

13 And I don't know what other communications you
14 had with her and, you know, whether you believed that you
15 would be added on the basis of a phone call or on the basis
16 of an e-mail inquiry.

17 I think that one thing I would like to see the
18 Energy Commission do differently after this is that -- and
19 in some ways it makes it -- in some ways we add a step to
20 members of the public, but I think it's better, really,
21 that we stick to our policy of saying to people that they
22 should please affirmatively add themselves to the list
23 server so that you know when you've done it and you're
24 not --

25 MR. LANDWEHR: Well, I also sent her a memo,

1 which it has a docket number, asking that the hearing of
2 the 12th be postponed, and I never received a response one
3 way or the other.

4 COMMISSIONER DOUGLAS: Uh-hum.

5 MR. LANDWEHR: I had no knowledge of the 12th
6 hearing. If I would have, I'd have been here.

7 COMMISSIONER DOUGLAS: You'd have been here.

8 And part of what we're asking you to do today,
9 and as the Chair noted, he asked that the draft order be
10 published so that we'd give you as much guidance as we
11 could, really, on what we're asking you for.

12 But we're asking you to tell us what it is that
13 you would have told us if you'd been there, because we're
14 here to listen to you now. And we want to know what it is.

15 And what we're sitting here trying to do is tie
16 what you tell us to the way that we think about extensions.

17 We don't use the extension process to re-litigate
18 substantive issues that came up in a licensing proceeding,
19 the fact that people might like, or not like, or agree or
20 not agree with something in the original licensing decision
21 is not really what we're looking at.

22 What we're really looking at are factors pro and
23 con for finding that reasonable exists to extend it. I
24 think that's probably the conversation you had with the
25 Public Adviser.

1 But I really hope that you take advantage of
2 this opportunity to lay that out for us. And I'm really,
3 with these questions, just seeing if I can build some
4 additional facts around it.

5 And I might ask a few more along those lines, but
6 do you have any comment right now or should I go on?

7 MR. LANDWEHR: No, other than I really don't
8 think there was an independent objective analysis of the
9 extension and that's based upon a hurriedness and I read it
10 in the e-mails, that they're hurried to get through this
11 process.

12 The Commission is very much eager to get its
13 compliance fees. And, in fact, one of the e-mails, if you
14 don't come up with the compliance fees, you're not going to
15 have our support in the extension.

16 The only comment that I would make is that I
17 think you can judge a company or a city's behavior based on
18 past performance, their past actions.

19 And in Victorville's way of handling the
20 Victorville 2 Power Plant construction is not positive.
21 They're being accused of operating outside the rules. And
22 the project, I believe, is not really viable.

23 COMMISSIONER DOUGLAS: Okay.

24 MR. LANDWEHR: And that's as far as I can say
25 right now.

1 CHAIRPERSON WEISENMILLER: But that's a second
2 question. If it's not viable, it's never going to get
3 built. So, whether they get an extension or not, if your
4 premise is correct that it's not viable, it's not going to
5 happen.

6 MR. LANDWEHR: Well, I agree, but I would really
7 like to be able to access our property and without the
8 influence of -- you can't do nothing because there's going
9 to be a power plant there for five years.

10 CHAIRPERSON WEISENMILLER: No, that's fair. It's
11 a fair question.

12 I mean the other issue you've raised, generally,
13 is an area which, again, is it's being looked at by the
14 courts. And so in a way, we will presume them innocent
15 until the courts decide. And if the courts decide the way
16 you think they should decide, then we will take action at
17 that point.

18 MR. LANDWEHR: I'm sorry, the court --

19 CHAIRPERSON WEISENMILLER: If the courts decide
20 that what you've said is correct on fraud then, you know,
21 obviously we will adjust our decision.

22 MR. LANDWEHR: I don't know what court you're
23 referring to, sir.

24 CHAIRPERSON WEISENMILLER: Oh, the courts, you
25 have indicated that certainly there are various

1 investigations there, a lawsuit filed, et cetera, is what
2 I'm saying.

3 MR. LANDWEHR: Oh, I got you.

4 CHAIRPERSON WEISENMILLER: Okay, you know, we're
5 not going to prejudge what they're going to decide. But,
6 certainly, if their decision matches what you've said then
7 we will certainly -- that would have -- we will revise the
8 decision.

9 MR. DE BORTENOWSKI: If I might, this is Andre
10 DeBortenowski --

11 CHAIRPERSON WEISENMILLER: Sure.

12 MR. DE BORTENOWSKI: -- City Attorney with the
13 City of Victorville. And I'd like, if possible, to address
14 some of those concerns about the other forums where
15 allegations have been made.

16 CHAIRPERSON WEISENMILLER: Sure, go ahead.

17 MR. DE BORTENOWSKI: Yeah, Mr. Landwehr has
18 alleged and continues to allege that we have violated the
19 Brown Act that we're under investigation. You know, there
20 was a Grand Jury investigation. It was fully concluded.
21 It was fully responded to. There have been no further
22 proceedings with respect to that.

23 It is true there is currently an SEC pending
24 investigation. The allegations against the City are very,
25 very weak. And as to the determination, there's been no

1 determination on that.

2 There have been no determinations in the various
3 court actions or in other forums that the City of
4 Victorville has violated any law, not followed the law to a
5 T, or failed to provide adequate notice.

6 The April 16th meeting of the City Council of the
7 City of Victorville, and the resolutions it adopted
8 addressed all of the Brown Act violations. I mean, there's
9 clearly no one can argue that we have not followed the
10 Brown Act when there's a public meeting fully and
11 appropriately noticed to consider the Council's
12 determination to seek an extension.

13 There's no merit to Mr. Landwehr's allegations
14 that the City is being investigated or that there's been
15 any determination in any forum that the City has failed to
16 comply with the law.

17 MR. LANDWEHR: Please. Yeah, I have a copy from
18 the San Bernardino County District Attorney documenting the
19 investigation that's going on now with the Brown Act.

20 And Mr. DeBortenowski has been very emphatic, and
21 in fact he's quoted in a news article with his e-mail that
22 the city manager can come to the California Energy
23 Commission and file an application -- or excuse me, an
24 application to extend construction and he doesn't need an
25 open hearing, he doesn't need Council approval. And he can

1 do that because he's the city manager.

2 I disagree. And if you would read the
3 transcripts from the June 12th hearing, the city manager is
4 very clear he received -- I can quote the minutes, I have
5 them right here.

6 This is I'm quoting Mr. Robertson, on page 111,
7 line 7, "I'd first like to thank your staff, specifically
8 Mary Diaz, earlier this year our City Council, brand-new
9 since originally filing for this, directed staff to attempt
10 to get this extension and to do so using city staff."

11 That's contrary to what Mr. DeBortenowski says.
12 And, actually, when I did a Public Records request I was
13 told that there was a hearing in closed session
14 specifically about that, but it wasn't disclosed on the
15 agenda.

16 It wasn't announced on the agenda nor was it
17 talked about afterwards. So, the City Council gave the
18 city manager supposedly direction in closed session to come
19 and file for an application to extend construction.

20 I would like to know about that so I could go to
21 the City Council of Victorville and say time out -- time
22 out, how much is it going to cost? We've already wasted
23 millions and millions of dollars in this project and
24 there's a lot of issues.

25 Can I have the Council's ear? Can the public

1 hear what the Council is doing behind closed session? And
2 this is a consistent pattern with the City of Victorville.
3 I can't attend a hearing that I don't know anything about.

4 I can't come to the Commission and attend a
5 hearing because I don't know anything about it. That's my
6 point. And so we go specifically to the credibility issues
7 that --

8 MR. DE BORTENOWSKI: Mr. Landwehr tends to ignore
9 (indiscernible) -- at these meetings that we fully noticed
10 and the resolutions that are part of the administrative
11 record.

12 COMMISSIONER DOUGLAS: If I could, I think that
13 these are the issues that were, as I understand, raised in
14 the record even though, Mr. Landwehr, at our hearing.

15 And as the Chair has said, we are really not the
16 body to adjudicate or opine on a Brown Act issue.

17 We have heard, I think, enough to have a sense of
18 what the issue is and the different views on it by you and
19 by the City, but we are not in a position to decide one way
20 or the other about it.

21 MR. LANDWEHR: No, I understand. I'm just
22 responding to --

23 COMMISSIONER DOUGLAS: I understand.

24 MR. LANDWEHR: -- Mr. DeBortenowski. He said
25 some things that, in my opinion, were not accurate.

1 COMMISSIONER DOUGLAS: I understand.

2 MR. LANDWEHR: And I have a document to refute
3 it. It happened in March and that comes from, actually,
4 the Lorraine Stevens (phonetic), the records coordinator,
5 that documented the response that it happened in closed
6 session and it wasn't agendized.

7 COMMISSIONER DOUGLAS: Yeah, I understand.

8 I think I go back, and I think other
9 Commissioners may have questions or may have comment on
10 this, I go back to the view that this is not something that
11 would have been relevant to our extension decision because
12 this is something that is outside of, which is it's outside
13 of the sort of thing that would have been a consideration
14 for us on whether or not to extend a license.

15 I have a hard time seeing, at least, the direct
16 line of relevance, and the information was in the record.

17 I want to hear what others have to say before
18 opining more on that. I just wanted to say one more thing,
19 just almost as an aside, today is the first day I heard you
20 raise an issue about work being done on your property,
21 surveys or other property without your knowledge.

22 Those are the sorts of things that you should
23 raise to our compliance staff. You don't need to file a
24 complaint to do that, although you're entitled to. But
25 those are the sorts of things that we also need to know

1 because, you know, we do exercise oversight over how these
2 licenses are --

3 MR. LANDWEHR: With all due respect, when I
4 noticed Mary Diaz that I wasn't on a mailing list what did
5 she say, "that's a problem, a property owner not being
6 noticed about what's going on."

7 MR. LEVY: Commissioners, just two more things.
8 One is in terms of the authority issue, whether the city
9 manager had authority, that's really an issue between the
10 city manager and Victorville, itself. It's not really an
11 issue for the Commission.

12 The second thing is the way our compliance
13 process works is after a certificate is granted, you've
14 acted on a license and you've approved a certificate, all
15 of the stakeholders at the time are then asked if they want
16 to stay on the list serve for the compliance process.

17 And rather than cluttering up the e-mail or
18 mailboxes of folks who don't have an interest anymore after
19 the issue has been determined, the folks who don't ask to
20 remain on the list for the compliance list serve are
21 dropped from the list serve, in accordance with,
22 essentially, with their requests.

23 And so it's not uncommon for neighbors to fall
24 off of list serves during the compliance process, even if
25 they were on the list serve for the application for

1 certification.

2 CHAIRPERSON WEISENMILLER: No, in terms of --
3 again, I'll go back and just sort of walk -- you know, I'm
4 sort of -- we gave you the draft decision and I think in
5 terms of the basic issues or basic resolution, I think
6 we're still in a position of recognizing, obviously, that
7 you had not got a hearing so we've given you the
8 opportunity. That you've raised issues of Brown Act or
9 authority, and that's really between you and Victorville.

10 And you've raised some issues on the compliance
11 side. And at least the issue you'd raised has been
12 addressed.

13 Now, going forward, what I urge you and every
14 landowner who's affected to work with the Public Adviser so
15 you get on the list serve going forward.

16 And you, and again everyone who's affected please
17 help us -- you know, she'll be very good at making sure
18 you're on that so that you've got the appropriate notice.

19 But again, we're -- for at least what's before us
20 today, you know, the fundamental question of authority, or
21 Brown Act violations is certainly not something that we're
22 going to take action based upon.

23 So I think at that stage, you know, I think I'm
24 relatively comfortable with the draft we put out.

25 Although, again, I certainly want to make sure that going

1 forward that you and everyone who's affected can be on the
2 list serve to be part of the compliance process.

3 And as Commissioner Douglas said, if there are
4 issues going forward on compliance, let us know but again,
5 starting with the staff.

6 COMMISSIONER MC ALLISTER: Yeah, I was going to
7 say something along the same lines. I mean it seems -- you
8 bring up issues that if I were a landowner in that area I'm
9 concerned about, too.

10 But, really, it's between you and the local
11 jurisdiction. You know, the local jurisdiction has the
12 authority to represent to us and they're the interested
13 party in development, and wanted to extend the license that
14 had previously been granted.

15 So, that is in no way -- you know, the fact that
16 we granted a license and extended it does not mean that the
17 project will be built, as the Chair said. And if the
18 project, itself, has fundamental flaws and, you know, your
19 and other advocacy on the ground in that community is
20 effective then maybe it won't be built. I don't know,
21 that's not up for us to decide.

22 But the issues, all of the issues except for a
23 couple that you've brought up are really between you and
24 the local jurisdiction. And, you know, we appreciate you
25 airing those out as, you know, we've given you the

1 opportunity to do.

2 But it doesn't seem like there's really any
3 conclusion on right and wrong there and, you know, it
4 wouldn't have been in June and isn't now. So, nothing in
5 that respect has really changed.

6 So, I absolutely respect you and other
7 landowners, and any interested party in that area or
8 beyond, your right, and certainly desire to organize and
9 get your voice heard is not the issue here. I think we all
10 acknowledge that that is your fundamental right and also a
11 good thing for process at any level, including here at the
12 Commission.

13 But within our sort of decision making arena,
14 which is a relatively -- which is not -- I think many of
15 the issues you brought up are in a bigger box than the box
16 that we're in, in the extension decision reconsideration.

17 You know, only a couple of them really are kind
18 of something that would -- that belong in our process. And
19 I think neither of those are compelling enough, for me at
20 least, to believe that we would have reached a different
21 decision in June.

22 But I want to just reiterate what the Chair and
23 Commissioner Douglas have said already which is, you know,
24 we do take our compliance responsibilities very seriously.
25 The Siting Division, you know, definitely wants to hear

1 about compliance violations. We hear about them regularly
2 and we act upon them.

3 And I would encourage you to -- you know, I know
4 you will stay engaged. I trust that others in the
5 community will, as well. And when issues come up that are
6 clearly compliance issues or concerns then we need to know
7 about them so that we can make sure that Victorville does
8 play within the rules, just like we would with any other
9 applicant.

10 So, I think, you know, good luck on doing that
11 going forward. I think it's a valuable thing that you're
12 doing and I understand you have a very personal interest in
13 that and I respect that very much.

14 And thanks for being here today.

15 COMMISSIONER SCOTT: I don't have anything to add
16 that the three of you haven't already raised.

17 CHAIRPERSON WEISENMILLER: Do we have a motion?

18 COMMISSIONER DOUGLAS: So, I will move to adopt
19 the proposed order.

20 COMMISSIONER MC ALLISTER: I'll second.

21 CHAIRPERSON WEISENMILLER: Okay, all those in
22 favor?

23 (Ayes)

24 CHAIRPERSON WEISENMILLER: So the resolution has
25 been adopted four to zero.

1 MR. LANDWEHR: Thank you for your time.

2 CHAIRPERSON WEISENMILLER: Thank you. Yes, and
3 thank you for being here. And, certainly, we've listened
4 to your concerns.

5 MR. LANDWEHR: Have a good day.

6 CHAIRPERSON WEISENMILLER: Okay.

7 So, let's move on to Item Number 9, Regents of
8 the University of California on Behalf of the California
9 Institute for Energy and Environment, possible approval of
10 three highest grant applications; total \$449,808, PIER.
11 Matt Fung, please.

12 MR. FUNG: All right, good morning Commissioners.
13 Again, I'm Matt Fung with the Energy Efficiency Research
14 Office. And I seek approval for the top three projects for
15 the enabling technologies EDT-1301 competitive grant
16 solicitation totally \$449,808.

17 It's being administered by the California
18 Institute for Energy and Environment. Three research
19 opportunity notices for transmission grid, distribution
20 grid, and Smart Home research areas were released in
21 January of 2013.

22 CIEE performed a two-stage evaluation process,
23 accepting pre-proposal abstracts and then full proposals.
24 Thirty-seven total abstracts were received and the top 15
25 were invited to submit full proposals. And of those 15

1 full proposals, the top three are being proposed for
2 funding, which are the top proposals from each research
3 area.

4 So, the first proposed project is the Arc Fault
5 Circuit Interrupter development for residential DC
6 electricity project from California Air Quality techs at
7 University of San Luis Obispo.

8 This project proposes developing an arc fault
9 circuit interrupter for DC circuits operating between 24
10 and 48 volts.

11 The AFCI will be incorporated into a Smart DC
12 plug that can detect DC arcing on either the load or supply
13 side of the DC electrical outlet which will increase
14 safety, security, quality and reliability of the electric
15 power system.

16 The second proposed project is the Repetitive and
17 Data Control of Distributed Generation for Seamless
18 Transitions Between Grid-Tied and Off-Grid Modes.

19 This project's proposed by UCLA, which they
20 propose to develop a predictive control methodology for
21 micro grids to seamlessly transition between distributed
22 generation and the electric power system, which improves
23 micro grid safety and reliability.

24 The final proposed project is the proposed
25 Silicon-Based Lithium Ion Anodes for Secondary Batteries

1 Project from UCSD.

2 That proposed to optimize the silicon anode
3 structures and manufacturability at scale to improve the
4 lithium ion battery lifecycle and storage capacity.

5 The proposed project will also test the silicon
6 anode materials and validate the ultimate formulations.

7 With that, I respectfully ask for approval for
8 these three projects and I am now open for taking any
9 questions.

10 The Project Administrator for CIEE, Theresa
11 Proffer (phonetic), I believe she is on the line to also
12 take questions.

13 CHAIRPERSON WEISENMILLER: Okay, great.
14 Commissioners, any questions or comments?

15 COMMISSIONER MC ALLISTER: I mean I believe these
16 are good projects. I know, the -- if you could talk about
17 the process a little bit, how many proposals you got and
18 sort of what the -- I mean what the overall outcome of that
19 is. I know these three were sort of the highest rank, but
20 sort of what did the rest look like.

21 MR. FUNG: Okay, so initially 37 total abstracts
22 were received. They went through a review process through
23 the Technical Advisory Committee and CIEE staff, as well.
24 And of those 37, the top 15 were invited to submit full
25 proposals and then they went through the same review

1 process.

2 And then, now we are here to -- or CIEE provided
3 recommendations for which projects that they would like to
4 be funded. And of those six that they recommended, we are
5 picking the top three.

6 CHAIRPERSON WEISENMILLER: Yeah, and I was going
7 to say this has gone through the normal Presiding Member
8 review but --

9 COMMISSIONER MC ALLISTER: Right, okay. I mean,
10 I like the mix of -- you know, there's one that's very
11 localized, you know, at the end-user level, there's another
12 one that's in the distribution grid and another one in the
13 transmission grid, and it's sort of up and down the food
14 chain there. We know that all of those areas are very
15 important, you know, for many different reasons so it's
16 good to have that coverage.

17 You know, distributed resources, you know, end-
18 use, distributed at the distribution level, localized grid
19 impacts and then transmission system issues are all on the
20 docket and all -- again, they're all very important.

21 So, it's good to see the funds being used in a
22 broad way like that.

23 COMMISSIONER SCOTT: I did have one question. I
24 see from the backup materials that we expect some of these
25 to be completed in 12 months, up to 18 months. And that,

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1 you know, one of them is going to construct and test the
2 anode materials and different things.

3 What type of data will we get back? Do we get a
4 report, do we get to see what they've built or what they've
5 tested at the end of these terms for the projects?

6 MR. FUNG: We'll simply get a final report at the
7 end of the term.

8 COMMISSIONER SCOTT: Uh-hum.

9 COMMISSIONER MC ALLISTER: So, I'll move Item 9.

10 COMMISSIONER SCOTT: Second.

11 CHAIRPERSON WEISENMILLER: Okay, all those in
12 favor?

13 (Ayes)

14 CHAIRPERSON WEISENMILLER: Item 9 passes four to
15 zero.

16 Let's go onto the minutes. I'm going to abstain
17 from the minutes since I wasn't here on August 27th.

18 COMMISSIONER DOUGLAS: Move the minutes.

19 COMMISSIONER MC ALLISTER: Second.

20 CHAIRPERSON WEISENMILLER: All those in favor?

21 (Ayes)

22 CHAIRPERSON WEISENMILLER: I abstained, so three
23 to zero.

24 Okay, let's go on to Lead Commissioner, Presiding
25 Member Reports.

1 COMMISSIONER SCOTT: So, I had -- it actually
2 hasn't been very long since we last met, but I do have a
3 couple of things to report on to you all.

4 I got to go on a tour of the Union Pacific Rail
5 Intermodal Yard, and also the Port of Oakland, in Oakland,
6 which was great. It was a nice opportunity to see some
7 goods movement in action, but also to see the different
8 things that both of these, both the UP and the Port are
9 doing to either electrify the transportation, electrify the
10 cranes at the Port. They showed us how you plug in the
11 ship.

12 And they actually developed their own -- plug is
13 not quite the right word because it's a very complex system
14 of charging there, but they developed their own box for
15 that. They didn't have a ship that was plugged in at the
16 time, so that was kind of a bummer we didn't get to see
17 that part.

18 And the UP Rail Yard they've got a really neat
19 system where they can sort of both check the security of
20 the driver, so that it's the right driver, in the right
21 truck, with the right container, and to get them -- direct
22 them to exactly where they need to be, either to drop off a
23 container or pick it up, and have appointments and things
24 like that. And so, that just avoids a lot of idling time
25 and it helps them move the goods more efficiently.

1 And so it was just kind of neat to see some of
2 the things that they are working on to help move goods more
3 efficiently, help clean the air, help us with some of the
4 climate challenges and see that kind of in action.

5 I also got to go visit AC Transit and that was
6 pretty neat what they've got down there. Well, they've got
7 a huge fleet, but they've got 12 fuel cell busses that they
8 have in operation. And so we got to see how they fuel one
9 of those up. We got to see what it was like to ride on
10 one. We actually got to drive one, which was pretty cool.

11 And it was -- not very far, I didn't pick up any
12 passengers or anything.

13 But it was just neat to see the technology. The
14 folks there are really happy with it. And so I hope to see
15 more.

16 I also got to go and visit Santa Clara Valley
17 Transportation Authority, and that's one of the places
18 where we have one of our Alternative and Renewable Fuel,
19 and Vehicle Technology Program Workforce Grants.

20 And it was just really neat to see the folks who
21 are there. And, you know, it's actually quite complex,
22 they have both busses and light rail. They're always
23 looking to make improvements.

24 And, basically, the money that we're giving,
25 similar to the community colleges, helps the workforce

1 train and be ready for the advanced technologies that we
2 are, you know, trying to get out there to transform our
3 transportation system.

4 They also had a great message about the
5 importance of transit and how they have been working with
6 the folks that live around the county to really just say,
7 you know, this is our transit. This is great for -- again,
8 it's good for clean air, it's good for climate if they can
9 get more people onto transit and just the importance of
10 transit in our system.

11 And so, it was neat to go there and see that, and
12 talk to some of the folks who have gotten trained with the
13 funding that we've provided.

14 And then I wanted to look forward to next week
15 and just let you all know, I think you probably already do,
16 on Monday, September 16th, there is the Drive the Dream
17 event that the Plug-In Electric Vehicle Collaborative is
18 putting together.

19 It is looking at making some major commitments to
20 workplace charging. And I just pulled it from the media
21 advisory, basically what they say is; "It's going to be
22 business leaders joining Governor Brown to announce
23 partnerships around plug-in electric vehicles in incentives
24 and infrastructure to spur growth in California."

25 And so, that's going to be taking place on

1 Monday, the 16th, in San Francisco.

2 So, that's my report.

3 COMMISSIONER MC ALLISTER: I'll be very brief.

4 Just a couple of things that I've done of some note, just I
5 think along the theme of seeing what kind of innovation is
6 happening out there, I had the opportunity to go down to
7 Southern California, but it was at Edison's Advanced
8 Technology Lab.

9 They're doing a lot of good stuff, mostly related
10 to distribution grid, but a lot of looking at home area
11 networks and how to incorporate, how to potentially do
12 demand response and monitoring at a very granular level,
13 pretty interesting research there.

14 A lot of EV research; how to incorporate plug-in
15 vehicles into the grid reliably, and looking at different
16 models for doing that, and reducing the cost of the
17 technologies involved in doing that.

18 So, my staff and I went down there and spent a
19 day looking at some of what they've been working on, so it
20 was very interesting.

21 Also went and did a tour of EnerNOC, which is one
22 of the nation's leading demand response providers, and they
23 have a dispatch center in San Francisco. So, they have an
24 impressive amount of megawatts under monitoring and
25 potential control, with customers on various continents,

1 more on the East Coast than in California but also in
2 California, and Australia, and other places.

3 So, it's the technology platform they've put in
4 place, and they're one of a number of those kinds of
5 providers, and I think they're providing a lot of
6 innovation to the marketplace, that it's going to help us
7 down the road. It's helping is already, but it's going to
8 help us even more down the road.

9 And along those lines I wanted to highlight one
10 of the recent IEPR workshops that we have, which was with
11 the heads of all of the various agencies. So, just this
12 past Monday -- yeah, exactly, just this past Monday,
13 including Chair Weisenmiller, who presided for our
14 Commission, but which had -- I won't even list them all,
15 but all of the various agencies, including South Coast, and
16 the Water Quality Control Board, and the main energy
17 agencies.

18 CHAIRPERSON WEISENMILLER: I would note that
19 every seat on the dais was full.

20 COMMISSIONER MC ALLISTER: Yes, exactly.

21 CHAIRPERSON WEISENMILLER: And Pickard (phonetic)
22 as in the audience so --

23 COMMISSIONER MC ALLISTER: Yeah, so another --
24 and we were talking about issues really central to energy
25 policy going forward in California, and particularly

1 stimulated by the various issues that are coming to
2 confluence in Southern California, SONGS, renewables
3 integration, the once-through cooling retirements, and
4 possible re-powers.

5 But a very robust discussion and I think there's,
6 you know, increasingly the agencies and many others are on
7 increasingly similar page on what needs to happen going
8 forward. And so, it was another kind of step in the
9 direction of having the high-level direction that we need
10 for going out there to execute, so a very interesting
11 discussion.

12 And let's see, lots going on in my wheelhouse on
13 energy efficiency, and with the staff moving forward on
14 various fronts. The Proposition 39 guidelines are getting
15 close, which I'm very happy about.

16 And, certainly, Rob, Marsha and team are working
17 hard on that, still, across the agencies that are involved
18 in Prop 39.

19 But it's interesting we have just a lot of other
20 themes, a lot of recurring themes here in my shop about how
21 to make better policy decisions, with an increasingly kind
22 of granular understanding of the energy system. And so
23 it's information management, it's grid reliability at an
24 increasingly local level.

25 We're moving that way in the forecast to try to

1 have a more localized understanding.

2 And all of these technologies that we're funding,
3 promoting, understanding, learning about they're so
4 critical for being able to execute properly.

5 And I think that's one of the things that really
6 gets me excited is helping -- you know, is working with the
7 marketplace and interface with the marketplace to
8 understand what the best solutions are going to be, and
9 then try to map over into the policy arena and try to do
10 things in a way that facilitates that.

11 So, a lot of the conversations along these sort
12 of the broad strokes are along these lines.

13 CHAIRPERSON WEISENMILLER: Yeah, I'm just going
14 to hit two topics. I mean, one is, as Commissioner
15 McAllister indicated we've got a pretty solid working group
16 among the various affected agencies on life
17 without -- post-San Onofre, and certainly UC and the Cal-
18 ISO are pretty closely aligned on a lot of the technical
19 issues.

20 And working very closely with the Water Board,
21 Mary Nichols at the Air Board, and the South Coast, so
22 again pretty -- you know, we've all seen any number of
23 reports saying -- calling into question the agency
24 coordination or whatever. And I guess part of the answer
25 is that the proof is in the pudding. I mean, we dealt with

1 keeping lights on last summer successfully. We're dealing
2 with it this summer, knock on wood, you know, that we don't
3 have any more horrendous fires, particularly near
4 substations or lines in Southern California.

5 And we've a plan going forward. You know, I'm
6 certainly -- so I feel fairly -- very good about that. I
7 mean, our top priority was reliability and will continue to
8 be reliability. You know, that's certainly the basic
9 message of, no, we're not going to repeat what happened
10 before in terms of reliability, but we're trying to do it
11 in a very -- in a fashion that really respects the State
12 and builds off of the State policies.

13 You know, I'm not going to go through my speech
14 at the end of saying, you know, it's a challenge and an
15 opportunity. And the challenge is really to keep the
16 lights on and the opportunity is really transform our
17 system down there.

18 And we're making some very, very aggressive goals
19 on preferred resources, 50 percent.

20 But we will have in place contingency plans for
21 everything. It's not just preferred resources
22 transmission. I mean, God knows, in terms of things that
23 we're losing sleep overnight is trying to get some of the
24 transmission facilities we need done in a timely fashion.
25 And I guess we could bet on whether that's going to happen,

1 but I'm probably more pessimistic on that, than some of
2 the preferred resources, or the conventional generation.

3 So, it's a very belt and suspenders approach, but
4 I think we have to just be prepared to deal with the
5 reality of the things that are going to happen that we
6 don't anticipate now, and a lot of those are not
7 necessarily going to be good, so that part.

8 And then I'll talk a little bit -- I mean, the
9 one thing that's interesting and sort of the -- in terms of
10 talking to the Governor on climate issues, and it's really
11 the thing that he's most impassioned about is climate
12 change and trying to respond to that challenge in terms of
13 mitigation and adaptation.

14 But we realize very much that California is
15 really a small piece of the puzzle, it's only like 1
16 percent of the world's greenhouse gas emissions.

17 And so, if we have these things to take it to
18 zero, it's not going to really change much unless we can
19 leverage our actions in other areas.

20 And so, we're really focusing a lot on how to
21 leverage what we're doing well here elsewhere, and that's
22 why we went to China. That's why we're going back to China
23 at some stage.

24 You know, certainly, we're looking at China,
25 India, Mexico, you know, just trying to say how do we

1 leverage what we're doing elsewhere in the United States
2 and outside the United States because that's the only way
3 we're going to make a difference down the line.

4 COMMISSIONER DOUGLAS: So, just briefly, I wanted
5 to note that we had two public meetings. Actually, the San
6 Bernardino County held two public meetings on the Desert
7 Renewable Energy Conservation Plan, one in Lucerne Valley
8 and one in Morongo Basin.

9 San Bernardino County is a planning grant
10 recipient and so, you know, actually those meetings, in
11 addition to providing information on the DRECP were a very
12 nice launch to the County's work to update its planning
13 documents and engage the public in planning around
14 renewable energy at the local government level.

15 One, on last Friday we had a meeting in the
16 Lucerne Valley, on Saturday morning we had a meeting in the
17 Morongo Basin. Both of those meetings were very well
18 attended. We heard from a lot of people and we heard some
19 really valuable perspectives for us to reflect on and, you
20 know, certainly for the County to work on as well.

21 So, I'm looking forward to being able to do,
22 hopefully, a few more of these meetings before the draft
23 goes out, potentially, and also certainly after the draft
24 goes out.

25 And it's really nice in a lot of ways to be at a

1 point where we are able to engage with desert residents
2 and counties really directly on our joint efforts of doing
3 the DRECP, and also of supporting the local governments in
4 their planning work.

5 So, I think that's my only report for now.

6 CHAIRPERSON WEISENMILLER: Chief Counsel's
7 Report.

8 MR. LEVY: Thank you, Commissioners. I'd like
9 to -- if I may introduce two of our new staff attorneys to
10 you.

11 CHAIRPERSON WEISENMILLER: Great.

12 MR. LEVY: If you could stand up, please?

13 The first is Ha Kyung Sarah Kim. Say hello.
14 There you go.

15 Ha Kyung graduated from McGeorge School of Law in
16 December 2012. She has an undergraduate degree, a Bachelor
17 of Science in business from George Mason University, in
18 Virginia.

19 She clerked for the Office of Administrative
20 Hearings, the Sonoma County District Attorney's Office, the
21 private firm of Chan and Lee, and also the California
22 Department of Personnel Administration.

23 Our other new attorney is Samantha Arens. She
24 graduated from the UC Davis School of Law in May of 2012.
25 She has an undergraduate Bachelor of Arts degree in

1 sociology, from Haverford College in Pennsylvania.

2 She most recently worked at the private law firm
3 of Churchwell White. Has worked at Legal Services in
4 Northern California, had an externship at Cal-EPA, an
5 internship at the California Attorney General's Office, and
6 a semester-long internship at the American Gas Association
7 in Washington, D.C.

8 Both of them, for the short term at least, or the
9 foreseeable future will be working on AB 118 and EPIC.

10 And please join me in welcoming them to the
11 Commission.

12 CHAIRPERSON WEISENMILLER: Yes, welcome, great to
13 have you on board.

14 Executive Director's Report?

15 MR. OGLESBY: Nothing to add today.

16 CHAIRPERSON WEISENMILLER: Public Adviser?

17 MS. MATHEWS: I actually have a short report. I
18 have an opportunity to go to South Africa, leaving next
19 week, and I will return October 7th.

20 And while I am there I will have the opportunity
21 to meet with some governmental officials. There's
22 hydraulic fracturing going on in the Karu area, so I want
23 to learn how they are reaching out to the rural community,
24 as well as very impoverished community members and
25 residents to see how they're informing them of the

1 environmental impacts, and getting the involvement from
2 those residents, and that's it.

3 COMMISSIONER MC ALLISTER: Fabulous.

4 CHAIRPERSON WEISENMILLER: That's very good.

5 Public comment?

6 Okay, this meeting is adjourned.

7 (Whereupon, at 2:07 p.m., the business
8 meeting was adjourned.)

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